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1 which had been -- as I recall, this actually had gone 10:22:39  
 2 on in a negotiation between Mr. Abdelhak and 10:22:43  
 3 Mr. Korman personally. And I walked out of that 10:22:47  
 4 negotiation, handed her this and said, Type this, 10:22:51  
 5 which is why she put my initials on it. 10:22:53  
 6 Q. So wherever we see the RMM footer, does that 10:23:00  
 7 mean that you likely had some kind of involvement with 10:23:03  
 8 the drafting of the document? 10:23:06  
 9 A. Very probably. Again, it's obviously subject 10:23:07  
 10 to review of the particular document, but those are 10:23:10  
 11 obviously my initials, yes. 10:23:12  
 12 Q. Do you recall that Allegheny had to pay money 10:23:13  
 13 in order to get out of the -- or to facilitate GHS 10:23:17  
 14 getting out of the management agreement it had with 10:23:21  
 15 HSI? 10:23:23  
 16 A. I recall that vaguely. As I say, I remember 10:23:25  
 17 there were understandings between QualMed, which 10:23:27  
 18 basically was controlling HSI at this point, Graduate 10:23:31  
 19 and Allegheny. That's where the G4 conversations came 10:23:34  
 20 up. And as I recall, yes, there was some money that 10:23:38  
 21 changed hands. I couldn't tell you the precise amount 10:23:41  
 22 of them. 10:23:43  
 23 Q. And that was money that was paid to HSI in 10:23:43  
 24 order to induce HSI to terminate the management 10:23:45  
 25 agreement? 10:23:48

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1 A. Correct. And if I recall correctly, 10:23:49  
 2 Mr. Korman -- and I only overheard this, I never saw 10:23:50  
 3 it, but I believe Mr. Korman may have made some 10:23:54  
 4 payments to them too or liquidated a note or done 10:23:56  
 5 something that was some consideration on his part for 10:23:58  
 6 doing the deal as well. 10:24:02  
 7 Q. Okay. Why don't we just set this document 10:24:03  
 8 aside. We might refer back to it later. 10:24:09  
 9 A. Okay. 10:24:11  
 10 MR. COGAN: Would this be a good time to 10:24:11  
 11 take a break. We've been going for an hour and a 10:24:12  
 12 half. 10:24:15  
 13 MR. TERUYA: Sure. Why don't we take a 10:24:15  
 14 quick break. 10:24:18  
 15 THE WITNESS: Not a problem.  
 16 VIDEO TECHNICIAN: We are now going off 10:24:19  
 17 the videotape record. The time, 10:30. 10:24:20  
 18 (Short recess.) 10:39:50  
 19 VIDEO TECHNICIAN: Back on. The time, 10:39:54  
 20 10:46. 10:39:55  
 21 BY MR. TERUYA:  
 22 Q. Just reference back to Exhibit-988, but I 10:39:59  
 23 don't think -- you can look at it if you need to, but 10:40:01  
 24 I just was going to ask, do you recall any sort of hot 10:40:03  
 25 issues that came up in negotiating and drafting the 10:40:07

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1 various documents that are contained in Exhibit-988? 10:40:10  
 2 A. Well, as I said, there was some back and 10:40:14  
 3 forth between QualMed and Allegheny and HSI about 10:40:18  
 4 getting out of the management agreement. There were 10:40:22  
 5 issues in the original negotiations about assuming 10:40:22  
 6 obligations with respect to some of the senior 10:40:28  
 7 managers from Graduate, most notably Mr. Cramer and 10:40:30  
 8 Mr. Mathews and Mr. Huber, who, interestingly enough, 10:40:35  
 9 chose not to work for Allegheny. Mr. Mathews did and 10:40:40  
 10 Mr. Cramer got his contract paid off, as best I 10:40:42  
 11 recall. 10:40:45  
 12 Probably the biggest issue in the original 10:40:47  
 13 negotiations was the amount of cash that was going to 10:40:50  
 14 be forthcoming from Graduate to Allegheny. There was 10:40:52  
 15 a lot of back and forth on that. 10:40:56  
 16 I did not participate directly in the 10:40:57  
 17 business discussions between the business people. 10:40:59  
 18 They were basically -- I was basically sitting there 10:41:01  
 19 scribbling and communicating with the lawyer on the 10:41:04  
 20 other side, Mr. Cornblatt. And then when we got down 10:41:06  
 21 to the revisions in the arrangements, there were some 10:41:12  
 22 discussions which I think were reflected in the 10:41:21  
 23 letters that went back and forth between Mr. Abdelhak 10:41:22  
 24 and Mr. Korman, which I think related to the change in 10:41:24  
 25 the format of the transaction and Mr. Korman's 10:41:27

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1 concerns about what kinds of liabilities and so forth 10:41:30  
 2 that might expose him to. Because there were real 10:41:32  
 3 issues that came up, particularly with respect to the 10:41:36  
 4 bond financings, with doing the transaction as a 10:41:47  
 5 merger rather than as an assumption of membership. 10:41:47  
 6 Q. And do you recall if any of the liabilities 10:41:49  
 7 that you're mentioning with respect to bond financing 10:41:51  
 8 ever came to be? 10:41:54  
 9 A. I don't know as a matter of personal 10:41:56  
 10 knowledge. Obviously the bonds went into default. I 10:41:58  
 11 know enough to know there was a special sort of class 10:42:03  
 12 of the Graduate bond holders in the general 10:42:06  
 13 transaction and that unlike the Allegheny bonds, which 10:42:08  
 14 were insured, the Graduate bonds were not insured, so 10:42:12  
 15 there was a tremendous amount of back and forth. 10:42:16  
 16 I do know, as I think I've mentioned 10:42:18  
 17 earlier, that there were some claims against 10:42:21  
 18 Mr. Korman lodged by -- I only know this from reading 10:42:23  
 19 the newspapers, by the way -- claiming that they had 10:42:26  
 20 been misled and that there had been various 10:42:30  
 21 guarantees, cross guarantees promised, and that monies 10:42:34  
 22 had been taken out, which were legitimately the bond 10:42:38  
 23 holders' monies. 10:42:41  
 24 And I know that those matters settled, and 10:42:42  
 25 as I recall, they settled for a payment of 4 or 5 10:42:46

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1 assistant secretary, and these were filed consistent 11:45:42  
 2 with Beth Cheng's original memorandum of April 22nd on 11:45:45  
 3 April 30. 11:45:49  
 4 Q. I don't know if I asked you this. This is 11:45:55  
 5 Item 3 on Beth Cheng's memo, right? 11:45:57  
 6 A. Yes. That's correct. On her May 9 memo, 11:45:59  
 7 this would be Article 3 -- Item 3. 11:46:01  
 8 Q. I'm going to mark as Exhibit-997 a document 11:46:03  
 9 with Bates number PR-BONDH-1195, and it appears to be 11:46:07  
 10 an Amended Certificate of Authority in New Jersey, 11:46:18  
 11 dated May 2nd, or filed May 2nd, 1997? 11:46:21  
 12 A. Correct. 11:46:24  
 13 Q. Do you recognize this document? 11:46:24  
 14 A. I'm not sure I've ever seen this document 11:46:25  
 15 before, to be perfectly honest with you. It was 11:46:26  
 16 executed by Dr. Kaye, was filed by a fellow named Jim 11:46:29  
 17 Hetzel at Kalison & McBride, who had been helping us 11:46:33  
 18 with our CON issue in New Jersey. 11:46:39  
 19 But it obviously was intended to 11:46:40  
 20 accomplish what is identified in Item No. 4 of Beth 11:46:42  
 21 Cheng's May 9 memorandum, which is its Amended 11:46:46  
 22 Certificate of Authority filing. 11:46:49  
 23 Q. Does this somehow allow the now renamed 11:46:50  
 24 Horizon Medical Corporation to operate a hospital in 11:46:53  
 25 New Jersey? Is that the point of this document? 11:46:56

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1 A. I think the point of it is that it qualifies 11:46:58  
 2 it to do business in New Jersey, yes, and to operate 11:47:01  
 3 in New Jersey. 11:47:04  
 4 Q. That's because -- 11:47:05  
 5 A. Well, they must have had a Certificate of 11:47:05  
 6 Authority before. This obviously amended it because 11:47:07  
 7 its name was amended. 11:47:10  
 8 Q. And this is to operate the Zurbrugg and 11:47:12  
 9 Rancocas Hospitals? 11:47:15  
 10 A. Yeah. Again, any time you have a foreign 11:47:16  
 11 corporation, it has to have a Certificate of Authority 11:47:18  
 12 to do business in a foreign jurisdiction. That's what 11:47:20  
 13 this is. 11:47:23  
 14 Q. Turning to a document I'll mark as 11:47:25  
 15 Exhibit-998, which bears Bates numbers PR-DLC-56-1359 11:47:26  
 16 through 1360. 11:47:34  
 17 A. Yes. 11:47:36  
 18 Q. It appears to be Articles of Amendment of 11:47:36  
 19 SSMOB, Incorporated? 11:47:38  
 20 A. Correct. 11:47:41  
 21 Q. And appears to be filed April 30, 1997? 11:47:50  
 22 A. Yes, which I guess the -- what you have 11:47:50  
 23 identified as 999 is actually, I think, an attachment 11:47:52  
 24 to 998, if I'm not mistaken. 11:47:56  
 25 Q. Why don't I mark as Exhibit-999 a document 11:48:03

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1 bearing Bates numbers PR-DLC-056-1446 through 1450. 11:48:06  
 2 This appears to be a number of attachments or an 11:48:16  
 3 attachment -- 11:48:21  
 4 A. This is the actual attachment to 998. This 11:48:23  
 5 is what would have actually been filed with the state. 11:48:25  
 6 Q. So do Exhibits 998 and 999 reflect Item No. 5 11:48:28  
 7 on Beth Cheng's memo? 11:48:34  
 8 A. Yes, they appear to. Yes, they appear to. 11:48:38  
 9 Q. Do you recognize these two documents as 11:48:49  
 10 documents that you executed? 11:48:52  
 11 A. Well, it's certainly my signature. I 11:48:53  
 12 executed them, and she arranged for the filing, I 11:48:55  
 13 believe.  
 14 Q. And you're at this point --  
 15 A. I executed the first one. The second one was 11:49:00  
 16 attached, which is the standard format you use. 11:49:02  
 17 Q. And is this just, this document, the purpose 11:49:05  
 18 of this document, to change the membership from GHS to 11:49:07  
 19 SDN of SSMOB, Incorporated? 11:49:11  
 20 MR. COGAN: Objection. 11:49:16  
 21 THE WITNESS: Let me put it this way: It 11:49:21  
 22 says that SDN is the member in this document, and 11:49:22  
 23 inasmuch as that was identified in another memorandum 11:49:25  
 24 as the purpose of this, I make the assumption that 11:49:28  
 25 that's what we were attempting to do here. 11:49:30

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1 BY MR. TERUYA:  
 2 Q. And at this point, were you assistant 11:49:33  
 3 secretary of SSMOB? 11:49:35  
 4 A. Yes, I was. And by the way, just as an 11:49:37  
 5 aside, with respect to various of the entities that 11:49:39  
 6 had been under Graduate's control, we had a particular 11:49:44  
 7 form of articles and tax compliance language that we 11:49:47  
 8 liked to use, which is one reason we restated 11:49:51  
 9 articles, which was to get these things into the 11:49:53  
 10 format that we liked. Because in some cases, they 11:49:57  
 11 hadn't been -- I mean, it was just -- it was a 11:49:59  
 12 preference for having articles that were standard 11:50:02  
 13 throughout the organization. 11:50:04  
 14 That was another purpose of this, as well 11:50:05  
 15 as getting the SDN in as the member. 11:50:06  
 16 Q. So whenever new entities came into the AHERF 11:50:10  
 17 system, it was customary to amend the Articles of 11:50:13  
 18 Incorporation to include the language? 11:50:15  
 19 A. Typically if there were another change in 11:50:17  
 20 corporate form required, we would at that time restate 11:50:19  
 21 their articles and redo the entire thing for the 11:50:22  
 22 non-profits. For the for-profits, not so frequently. 11:50:25  
 23 Q. I'd like to mark as Exhibit-1056 a document 11:50:30  
 24 bearing Bates numbers PR-DLC-056-1366 through 1372. 11:50:34  
 25 It appears to be a document that are the -- that is 11:50:43

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1 the Articles of Amendment for SSMOB filed April 30, 11:50:49  
 2 1997, and it has an attachment as well. 11:50:53  
 3 A. Yes. That's correct. And it appears that 11:50:57  
 4 this is virtually identical to the prior document, 11:51:00  
 5 with the exception that U/G Holding has now been named 11:51:03  
 6 as the member of SDN, Inc. -- excuse me; that U/G 11:51:07  
 7 Holding has been named as the member of SSMOB, Inc. 11:51:11  
 8 Q. Do you recall why this document has to -- let 11:51:15  
 9 me rephrase this. 11:51:20  
 10 Do you recall why the membership of SSMOB 11:51:20  
 11 was changed to SDN and then, within a matter of days 11:51:22  
 12 or within a day, then changed from SDN to U/G Holding, 11:51:27  
 13 Inc? 11:51:33  
 14 A. I do not recall. I can speculate. And I 11:51:34  
 15 suspect it had to do with the month end. And if I 11:51:37  
 16 recall correctly, certain of these enterprises had 11:51:41  
 17 April 30 year ends. But I may have been wrong about 11:51:43  
 18 that. 11:51:46  
 19 Q. You don't have any personal knowledge of the 11:51:46  
 20 reason why -- 11:51:48  
 21 A. No. As I said, I think this -- the 11:51:49  
 22 instructions for these originated from the finance 11:51:52  
 23 department, as reflected on the original April 22nd 11:51:53  
 24 memo. If you look at the people who were on the 11:51:55  
 25 distribution list for that memo, they were almost 11:51:57

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1 exclusively, with the exception of me and the two bond 11:52:00  
 2 lawyers, people who were in the finance group. 11:52:02  
 3 Q. And this is Item No. 6 on Beth Cheng's memo, 11:52:05  
 4 Exhibit-993? 11:52:09  
 5 A. That is correct. 11:52:12  
 6 Q. I'm going to mark as Exhibit-1057 a document 11:52:14  
 7 bearing Bates numbers Foley, F-O-L-E-Y, 29561 through 11:52:19  
 8 29578. It appears to be Articles of Division of SDN, 11:52:26  
 9 Incorporated? 11:52:39  
 10 A. That's correct. 11:52:40  
 11 Q. And it appeared to be filed April 30, 1997? 11:52:40  
 12 A. That's correct. 11:52:45  
 13 Q. Do you recognize this document? 11:52:46  
 14 A. I executed it. It is the Articles of 11:52:47  
 15 Division of SDN creating SDN Transition Corporation. 11:52:48  
 16 And I will have to look and see. 11:52:56  
 17 Yeah. This was designed to effectuate the 11:53:14  
 18 transfer of the shares of SDN held in GHS Holding 11:53:18  
 19 Corporation, the membership interest of SDN in U/G 11:53:22  
 20 Holding and the membership interest of SDN in 17th & 11:53:25  
 21 South Street Parking Corporation, which would have 11:53:39  
 22 been transferred by operation of law by the division. 11:53:39  
 23 Q. And do you recall that the SDN Transition 11:53:41  
 24 Corporation would have no members subsequent to the 11:53:44  
 25 division of SDN? 11:53:48

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1 A. That's what Article 4 of the Articles of 11:54:03  
 2 Incorporation that created SDN Transition Co said at 11:54:05  
 3 the time they were filed. So, yes. I mean, that's 11:54:10  
 4 clearly an accurate reflection. 11:54:12  
 5 Q. And do you recall that AHERF would become the 11:54:14  
 6 member of SDN? 11:54:18  
 7 A. Well, I think the AHERF transaction was 11:54:23  
 8 happening more or less contemporaneously with these 11:54:24  
 9 transactions. I haven't seen the -- I don't think 11:54:29  
 10 we've seen those. If we have, it's many documents 11:54:33  
 11 ago. I don't remember having seen the Articles of 11:54:35  
 12 Amendment of the SDN articles. 11:54:39  
 13 But, yeah. That would have been -- and at 11:54:42  
 14 that time the name of SDN was changed to, I believe, 11:54:44  
 15 Allegheny Hospitals, Centennial. 11:54:47  
 16 Q. I guess I'd refer you to FOLEY 29571, which 11:54:52  
 17 appears to be part of the amended and restated 11:54:56  
 18 Articles of Incorporation -- 11:55:00  
 19 A. Ah-ha. So there it is. Excellent. So 11:55:02  
 20 that's exactly it, yes. Thank you. Yes. This was 11:55:03  
 21 done simultaneously. In other words, this was Step 2, 11:55:06  
 22 was accomplished effective as of April the 30th. And 11:55:09  
 23 that was the second step of the overall transaction, 11:55:15  
 24 along with the transfer of Horizon to become a direct 11:55:18  
 25 subsidiary of AHERF. 11:55:21

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1 Q. So this document makes AHERF the member of 11:55:23  
 2 SDN, Incorporated; is that right? 11:55:26  
 3 A. Correct. As well as dividing SDN into itself 11:55:30  
 4 and SDN Transition Corporation. 11:55:38  
 5 Q. I'd like to mark as -- 11:55:48  
 6 A. By the way, that is the document reflected as 11:55:49  
 7 Item 7 on Ms. Cheng's May 9th memorandum. 11:55:53  
 8 Q. Thank you. And you executed that document -- 11:55:56  
 9 A. That's correct. 11:55:59  
 10 Q. -- as assistant secretary of SDN? 11:56:00  
 11 A. That's correct. 11:56:02  
 12 Q. And the last exhibit in this series I'd like 11:56:05  
 13 to mark as Exhibit-1058. It's PR-DLC-056-1391 through 11:56:07  
 14 1401. It appears to be Articles of Merger between U/G 11:56:15  
 15 Holding, Incorporated and SDN Transition Corporation 11:56:21  
 16 and appears to be filed April 30, 1997. 11:56:25  
 17 Do you recognize this document? 11:56:30  
 18 A. It's a document merging SDN Transition 11:56:34  
 19 Corporation and the assets that were transferred into 11:56:37  
 20 U/G Holding, which is another former Graduate 11:56:40  
 21 subsidiary. And I executed this document, and it's 11:56:44  
 22 effective as of May 1, which was the day after the 11:56:48  
 23 other transactions were done. 11:56:51  
 24 Q. And you executed this document in your dual 11:56:55  
 25 capacities as assistant secretary of SDN Transition 11:56:57

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1 McConnell and Abdelhak on our side. 12:06:35  
 2 Q. How about HSI; anyone on their behalf? 12:06:39  
 3 A. Again Korman, again Abdelhak. I don't think 12:06:41  
 4 McConnell was as heavily involved in that one. 12:06:45  
 5 McConnell was involved in the -- at the early stages 12:06:47  
 6 of the Graduate transaction. When we got down to some 12:06:50  
 7 of the iterations in September and October when the 12:06:53  
 8 transaction was being sort of modified, Abdelhak took 12:06:56  
 9 a much more active role. 12:07:00  
 10 And see, I didn't, to be perfectly candid 12:07:03  
 11 with you, I didn't even know during the June, July 12:07:06  
 12 period how much Sherif was involved and how much David 12:07:08  
 13 was involved. I was talking to David, but it may very 12:07:11  
 14 well have been that Sherif was right there on the 12:07:14  
 15 phone the same as everybody else. 12:07:16  
 16 Q. Were there any HSI folks involved? 12:07:18  
 17 A. Yeah. Well, Malik Hasan, who was the -- 12:07:20  
 18 well, no. It was not -- it would not have been HSI. 12:07:25  
 19 HSI at this point was owned by QualMed. The head of 12:07:28  
 20 QualMed at that time was a fellow named Malik Hasan, 12:07:31  
 21 who was a physician. They were in Pueblo, Colorado. 12:07:34  
 22 And he was intimately involved in the discussions. I 12:07:36  
 23 think there were a couple of other senior executives 12:07:38  
 24 involved. 12:07:40  
 25 I dealt with a couple of their inside 12:07:41

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1 counsel, whoever their general counsel was and an 12:07:45  
 2 assistant GC, whose name was Mike something or other, 12:07:50  
 3 who was a skadnelon (ph), if I recall correctly. I 12:07:54  
 4 couldn't -- I mean, if you had put their names in 12:07:57  
 5 front of me, I might remember them. 12:08:00  
 6 But there were some discussions there and 12:08:01  
 7 there was a little bit of posturing, as I said 12:08:03  
 8 earlier, and some back and forth, but that was -- 12:08:05  
 9 those were the primary people. And there was a 12:08:08  
 10 certain amount going on. In fact, there was a lot 12:08:10  
 11 going on, I later think I determined, that was 12:08:12  
 12 completely beyond my purview, which was Korman's 12:08:16  
 13 discussions with Hasan and QualMed about the terms of 12:08:19  
 14 GHS's involvement in HSI and the HSI Management 12:08:24  
 15 contract going on. 12:08:30  
 16 Q. Were you involved in or were you privy to 12:08:31  
 17 these discussions? Not just the HSI ones, but I mean 12:08:34  
 18 just the general discussions or negotiations relating 12:08:37  
 19 to the business terms. 12:08:40  
 20 A. Some. I mean, I was there for a couple of 12:08:41  
 21 them when Mr. Korman and Mr. Abdelhak were talking 12:08:43  
 22 about very specific things. Early on I was not there. 12:08:46  
 23 I mean, when we were doing the deal in June and July, 12:08:52  
 24 I was basically sitting at the end of a telephone, 12:08:55  
 25 getting drafts of stuff or being told what the deal 12:08:58

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1 was, drafting things, putting them in front of people, 12:09:10  
 2 they'd say, No, that's not the deal, or we've changed 12:09:10  
 3 this, or whatever it might be. That sounds like a 12:09:10  
 4 peculiar way for lawyers to operate, I understand, but 12:09:10  
 5 the way that Allegheny did business was, they didn't 12:09:12  
 6 always involve the lawyers in lots of things that were 12:09:14  
 7 going on. I think I understand why now, and perhaps I 12:09:17  
 8 should have suspected why then, but -- 12:09:20  
 9 Q. Was Foley & Lardner involved in negotiating 12:09:23  
 10 the business terms at all? 12:09:26  
 11 A. Not to the best of my knowledge. I mean, you 12:09:26  
 12 know, there undoubtedly were some discussions with 12:09:31  
 13 Bob, only because they wanted to make sure that there 12:09:34  
 14 was no bond problem, but, I mean, I don't think he was 12:09:36  
 15 actively involved in negotiating. 12:09:38  
 16 I mean, their attitude about lawyers, just 12:09:40  
 17 as an aside, was, We'll make the deal and tell you 12:09:42  
 18 what the deal is. You know, in fact, Abdelhak told me 12:09:46  
 19 early in my tenure there, I don't take business advice 12:09:50  
 20 from my lawyers. All right. Fine. 12:09:52  
 21 Q. And that was even, like, from the day you set 12:09:55  
 22 foot at Allegheny? 12:09:58  
 23 A. It was early on. I can't say that it was the 12:09:59  
 24 day, but it was certainly within a short period of 12:10:01  
 25 time. 12:10:04

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1 Q. So that would have been true with respect to, 12:10:06  
 2 what, the Hahnemann acquisition, for example, and the 12:10:08  
 3 United acquisition? 12:10:10  
 4 A. Yeah. I mean, we did them pretty much -- 12:10:11  
 5 well, I was outside at the time -- 12:10:13  
 6 Q. You were at DVR? 12:10:15  
 7 A. -- of the deal.  
 8 And, in fact, there was a complication 12:10:17  
 9 with the United transaction because he wanted this to 12:10:19  
 10 be sort of ultra hush-hush. So he actually conducted 12:10:21  
 11 the negotiations in the United transaction in our 12:10:26  
 12 offices, in Drinker's offices in Philadelphia, and he 12:10:29  
 13 and Myles Turtz met there. And since they were there, 12:10:33  
 14 I was with them. Not all the negotiations. Like the 12:10:36  
 15 payoffs of the senior executives which went on. 12:10:39  
 16 But this was a pretty common format. I 12:10:43  
 17 mean, they would go off, talk to the business guys on 12:10:46  
 18 the other side, come back and say, Here's the deal, 12:10:50  
 19 write it up. And you'd say, Well, what about this, 12:10:52  
 20 what about that, what about the other thing, and 12:10:53  
 21 they'd -- you know, you'd kind of go back and forth. 12:10:55  
 22 It was not a very efficient way of doing things, but, 12:10:56  
 23 you know, you play on the field that the client sets 12:11:00  
 24 for you. 12:11:04  
 25 Q. During negotiating these acquisitions, did 12:11:04

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1 Abdelhak consult with -- Mr. Abdelhak consult with the 12:11:07  
 2 Board of Directors of AHERF? 12:11:10  
 3 A. I think he was consulting with individual 12:11:12  
 4 members of the Board. I mean, he was relatively 12:11:14  
 5 punctilious about going and getting approval from at 12:11:17  
 6 least some group of the Board, whether it be the 12:11:19  
 7 executive committee or the full Board. I mean, that's 12:11:22  
 8 certainly the case. 12:11:23  
 9 I know that, for example, in the Graduate 12:11:25  
 10 transaction, he represented to me -- now, whether he 12:11:26  
 11 did it or not, I wasn't on the phone -- that he had 12:11:28  
 12 talked to some of the key senior members of the Board, 12:11:31  
 13 like Mr. Snyder and Mr. Barnes, who was the chairman 12:11:34  
 14 of the finance committee, and people like that. But, 12:11:37  
 15 I mean, whether he actually did or not, I can't tell 12:11:39  
 16 you. 12:11:41  
 17 Q. Do you know when that would have been that he 12:11:42  
 18 was talking with them? 12:11:44  
 19 A. I think he was talking with them as the 12:11:45  
 20 transaction approached culmination, which would have 12:11:47  
 21 been late, late July, you know, within -- I'd say 12:11:51  
 22 within a week, ten days of when we were actually 12:11:56  
 23 concluding the thing. Maybe even closer in it. 12:11:59  
 24 I know one reason why he -- first of all, 12:12:03  
 25 he would never have done anything without letting Mr. 12:12:08

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1 A. I think he mentioned Mr. Gumberg's name. I'd 12:13:26  
 2 have to go back and look at the list. There were 12:13:30  
 3 three or four key people out there who he sort of ran 12:13:33  
 4 things by. 12:13:37  
 5 I'm trying to remember who was on the 12:13:37  
 6 executive committee. I think Mr. Gumberg was. I 12:13:48  
 7 think Mr. -- maybe Mr. Edelman, although possibly not 12:13:48  
 8 because he and Sherif were not big friends. Maybe 12:13:50  
 9 Mr. Nimick. Those were sort of the key people. 12:13:54  
 10 And I will say this: I mean, all of the 12:14:01  
 11 key people he would have talked to would have been in 12:14:03  
 12 Pittsburgh, notwithstanding the fact this was a 12:14:05  
 13 Philadelphia transaction and notwithstanding the fact 12:14:10  
 14 that a Philadelphia trustee might have been more 12:14:12  
 15 conscious of some of those issues you raised earlier 12:14:14  
 16 about Graduate's standing in the community and 12:14:16  
 17 financial status. 12:14:18  
 18 Q. We might return to that in a second. 12:14:22  
 19 And this is all taking place in July of 12:14:24  
 20 '96? 12:14:27  
 21 A. Yes; July and very early August. If I looked 12:14:30  
 22 at a calendar, I can tell you precisely -- close to 12:14:34  
 23 the dates. 12:14:38  
 24 The Graduate transaction was approved on 12:14:40  
 25 the first Monday in August of 1996. I remember they 12:14:43

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1 Snyder know about it anyway. 12:12:10  
 2 But, second, and I recall this very 12:12:11  
 3 distinctly, because Wynstra was actually in Scotland 12:12:13  
 4 the day that the deal got done. They went off for a 12:12:16  
 5 junket. He and Mr. Snyder and -- Nancy, Mr. Snyder 12:12:21  
 6 and Mr. Abdelhak went off to the northern -- 12:12:26  
 7 northwestern coast of Scotland for a week and a half 12:12:31  
 8 and they stayed at some castle up there that Andrew 12:12:34  
 9 Carnegie used to own, the name of which escapes me. 12:12:37  
 10 And they were there purportedly in their role as the 12:12:41  
 11 risk retention committee of the malpractice captive. 12:12:47  
 12 Well, what they were doing was, they were having a 12:12:51  
 13 vacation, only they didn't charge themselves for it. 12:12:53  
 14 But the reason -- I come back to the 12:12:55  
 15 original question. He wouldn't have dared to go to 12:12:56  
 16 Scotland with Mr. Snyder for ten days had he not 12:13:01  
 17 talked to him about this deal, which went down about 12:13:04  
 18 15 minutes before they all went over there together. 12:13:05  
 19 And he was very careful also, by the way, 12:13:07  
 20 about involving the general counsel. I mean, she was 12:13:10  
 21 at the table a lot, particularly as things began to 12:13:15  
 22 unwind a little bit. 12:13:18  
 23 Q. Other than Mr. Barnes and Mr. Snyder, are 12:13:20  
 24 there any other Board members that you can think of 12:13:23  
 25 that he may have talked with? 12:13:25

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1 had a -- they had had a sort of informal Board meeting 12:14:47  
 2 the Sunday before. And Monday afternoon of that week 12:14:52  
 3 we went over to the church, and their Board was 12:14:57  
 4 meeting there. As I recall, it was me, Sherif, Don 12:15:03  
 5 Kaye and McConnell. And we went in and they 12:15:07  
 6 introduced us, and they had a sort of -- they had 12:15:12  
 7 formally approved the transaction at this point. And 12:15:14  
 8 Sherif made a little speech about what his hopes were 12:15:17  
 9 and introduced us and so forth. 12:15:20  
 10 And then we went back to Hahnemann, and 12:15:21  
 11 McConnell and Sherif and Wynstra had a conference 12:15:27  
 12 telephone call. And that's the reason I remember why 12:15:31  
 13 Sherif was in Scotland, because in their capacity as 12:15:35  
 14 the Board of SDN to approve the other side of the 12:15:37  
 15 transaction. 12:15:40  
 16 Q. Do you remember, did any of the AHERF Board 12:15:40  
 17 approve the transaction at that point? 12:15:43  
 18 A. I was told that the members of the executive 12:15:45  
 19 committee had approved the transaction, and he -- now, 12:15:48  
 20 whether he convened them in a group or not or whether 12:15:53  
 21 he just did it individually by polling them, I don't 12:15:55  
 22 know. 12:15:58  
 23 I will tell you that there was later in 12:15:59  
 24 the fall a bit of a dust-up about that, because he had 12:16:02  
 25 a Board meeting, and which I happened to be present 12:16:06

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1 at, which was not the normal style. He didn't like 12:16:09  
 2 the lawyers at the Board meetings, where there was 12:16:11  
 3 something of a controversy about the fact he had not 12:16:14  
 4 gone to the full Board. And he said -- and there was 12:16:16  
 5 truth to this. He said, Korman was leaving for Europe 12:16:20  
 6 for two weeks and there simply wasn't -- and he was. 12:16:23  
 7 I mean, that was what he told Sherif anyway. And 12:16:27  
 8 there simply wasn't time to convene the full Board, we 12:16:29  
 9 had to get this done quickly. And that was what I was 12:16:32  
 10 told. And I was told that the executive committee had 12:16:34  
 11 approved it, and I had the choice of either telling 12:16:36  
 12 him it was a lie and leaving or taking his word for 12:16:39  
 13 it. 12:16:42  
 14 Q. Had you, back in July and August of '96, 12:16:42  
 15 advised Sherif Abdelhak or anyone else that they 12:16:46  
 16 should be consulting with the Board of AHERF, the full 12:16:51  
 17 Board? 12:16:54  
 18 A. They knew perfectly well they should be 12:16:54  
 19 consulting with the Board. We told them that any 12:16:56  
 20 number of times. 12:16:59  
 21 Q. Were you troubled by the fact that there was 12:17:00  
 22 this dust-up? 12:17:02  
 23 A. I would have preferred him to convene the 12:17:03  
 24 Board and so forth. But, I mean, he had a lot of 12:17:05  
 25 authority, and the executive committee had a lot of 12:17:08

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1 authority, and he -- and he -- yeah. I mean, it would 12:17:09  
 2 have been far better if the full Board had approved 12:17:18  
 3 it. I mean, that just goes without saying. 12:17:21  
 4 Q. Did you think it was improper that he was 12:17:22  
 5 going to the executive committee rather than the full 12:17:23  
 6 Board? 12:17:26  
 7 A. No, because there had been other 12:17:27  
 8 circumstances, and I can't remember the details, but 12:17:29  
 9 where he had gone to the executive committee. 12:17:31  
 10 I mean, these were people who had been 12:17:33  
 11 empowered to do certain things on behalf of the Board 12:17:35  
 12 of Directors. And let's remember, by the way, that 12:17:37  
 13 nothing had actually happened when this was brought to 12:17:39  
 14 the Board's attention. Had they wanted to say, No, 12:17:45  
 15 we're not going to do this, it would have been 12:17:47  
 16 perfectly within their legal capability to do that. 12:17:51  
 17 We're talking about how much? Almost three months 12:17:53  
 18 later when the transaction finally happened. 12:17:57  
 19 Q. Do you have any personal knowledge about 12:18:02  
 20 whether the executive committee could irrevocably 12:18:04  
 21 approve a transaction -- 12:18:07  
 22 A. I had been told -- 12:18:09  
 23 Q. -- on its own? 12:18:09  
 24 A. -- previously by the general counsel that the 12:18:11  
 25 executive committee had the plenary authority to act 12:18:12

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1 on behalf of the Board, because the question had come 12:18:15  
 2 up before. And I had not sat in those meetings. I 12:18:16  
 3 didn't know who had authorized whom to do what, but 12:18:20  
 4 she told me that and I pretty much was forced to take 12:18:22  
 5 her word for it. 12:18:24  
 6 Q. Do you know if that happened with respect to 12:18:26  
 7 the GHS acquisition, that the executive committee 12:18:28  
 8 irrevocably approved the deal back in August '96? 12:18:33  
 9 A. He told me that it had been approved by the 12:18:44  
 10 executive committee. 12:18:44  
 11 Q. Do you know if it had been irrevocably 12:18:44  
 12 approved? 12:18:44  
 13 A. I can't tell you that that word was used. 12:18:44  
 14 Q. Had there been a -- you've mentioned there 12:18:44  
 15 was sort of a past practice of the executive committee 12:18:44  
 16 acting on behalf of the full Board with respect to 12:18:47  
 17 acquisitions in the past? 12:18:49  
 18 A. No, no. Transactions. There had been other 12:18:50  
 19 circumstances that I was aware of, and as I say, I 12:18:53  
 20 can't cite them to you chapter and verse, but it had 12:18:55  
 21 been made clear to me by the general counsel that if 12:18:58  
 22 the executive committee approves something in a 12:19:01  
 23 circumstance where there was a legitimate reason for 12:19:03  
 24 having to do it quickly or because it, for whatever 12:19:06  
 25 reason, couldn't seek full Board approval, that that 12:19:08

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1 was acceptable, that was acceptable format. 12:19:11  
 2 Q. Do you know any examples of acquisitions 12:19:12  
 3 where that had taken place? 12:19:14  
 4 A. No. In fact -- well, let me go back for a 12:19:15  
 5 minute. 12:19:20  
 6 No. In point of fact -- well, I mean, the 12:19:21  
 7 question is at what point. I mean, in other words, 12:19:24  
 8 before he ever went to the Board of Directors, he 12:19:30  
 9 would have had the approval of the, quote, executive 12:19:34  
 10 committee or the members of the executive committee, 12:19:38  
 11 because he would want to -- he wasn't given to going 12:19:41  
 12 and getting himself beaten up. 12:19:43  
 13 My recollection of the United deal, which 12:19:45  
 14 I only heard about, I was not a party to, was that it 12:19:48  
 15 was approved by the Board. I know that the Hahnemann 12:19:52  
 16 transaction was approved by the Board, because they 12:20:00  
 17 actually sent me to Pittsburgh because they wanted 12:20:02  
 18 somebody out there who knew about the transaction, 12:20:04  
 19 because everybody else was in Philadelphia meeting 12:20:06  
 20 with the Hahnemann Board. So I was out there. 12:20:08  
 21 So the answer is, no, I'm not sure it 12:20:10  
 22 happened previously in the context of an acquisition 12:20:14  
 23 transaction. But as I say, I don't remember the use 12:20:16  
 24 of the word "irrevocable," and I'm not aware that it 12:20:21  
 25 was -- I mean, let's put it this way: These were 12:20:23

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1 relatively prudent people. I mean, some of them had 12:20:27  
 2 been in fairly responsible positions. I mean, David 12:20:30  
 3 Barnes had been chairman of the Board of Mellon Bank, 12:20:34  
 4 which is not exactly small change, although he hadn't 12:20:36  
 5 done a very good job of it. 12:20:41  
 6 Cahouet may have been on that executive 12:20:43  
 7 committee too, Frank Cahouet, who was Barnes' 12:20:46  
 8 successor as chairman of Mellon Bank. 12:20:49  
 9 If he had proposed to them that they, 12:20:52  
 10 quote, irrevocably approved something, I would think 12:20:54  
 11 that would have triggered some questions. 12:20:58  
 12 Q. But you don't know whether or not they did or 12:21:02  
 13 didn't irrevocably approve the transaction? 12:21:04  
 14 A. No, I don't know that. 12:21:08  
 15 Q. And did you think there were legitimate 12:21:09  
 16 reasons with respect to the GHS acquisition to go to 12:21:12  
 17 the executive committee rather than the full Board in 12:21:16  
 18 August of '96? 12:21:20  
 19 A. Well, as I told you -- 12:21:21  
 20 Q. I know you mentioned one. 12:21:22  
 21 A. -- what was true -- well, that was his 12:21:24  
 22 presumptive reason for doing it. He said, We've got 12:21:26  
 23 to get this done, Korman is leaving, we can't do it 12:21:28  
 24 without Korman's approval. Korman will not move 12:21:31  
 25 forward unless we have some kind of indication from 12:21:35

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1 our executive committee that they're willing to commit 12:21:38  
 2 to this transaction. That was the story. Now, 12:21:42  
 3 whether it was a true story or not a true story, for 12:21:44  
 4 all I know, he may have sent Korman to Europe. 12:21:47  
 5 But that was the approach, and it was the 12:21:50  
 6 approach that he raised in front of the Board when 12:21:53  
 7 this controversy occurred in, I think it was, 12:21:57  
 8 September. And, I mean, there certainly was the 12:22:00  
 9 opportunity at that point for people to say, We're not 12:22:04  
 10 going to do this. 12:22:06  
 11 Now, this was, admittedly, a subsidiary 12:22:07  
 12 Board. This was not the AHERF Board. This was the 12:22:08  
 13 Allegheny Hospital's eastern region, or whatever they 12:22:11  
 14 were calling the thing at that point, Board. 12:22:17  
 15 But everybody stepped to the line and the 12:22:19  
 16 transaction got done. 12:22:22  
 17 Q. But, I mean, the executive committee you're 12:22:28  
 18 referring to is a subcommittee of the main AHERF 12:22:29  
 19 Board; is that right? 12:22:32  
 20 A. Yeah, exactly. It was comprised -- which was 12:22:34  
 21 not an uncommon methodology, as you're aware of. But, 12:22:36  
 22 I mean, generally the reason you have an executive 12:22:38  
 23 committee in place is precisely to deal with sensitive 12:22:40  
 24 issues or time-sensitive issues or things that you 12:22:42  
 25 don't want -- that you either can't or don't want to 12:22:45

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1 secure approval from the full group for. And I've 12:22:50  
 2 seen that in a number of different settings. AHERF 12:22:52  
 3 was certainly not unique in that regard. 12:22:55  
 4 Q. And did you perceive there to be a legitimate 12:23:00  
 5 need at the time to go to the executive committee such 12:23:02  
 6 that it was appropriate to do so rather than going to 12:23:04  
 7 the full Board? 12:23:06  
 8 A. He wanted to do the transaction quickly. I 12:23:10  
 9 mean, that was his call. I mean, once you accepted 12:23:12  
 10 that -- and this was not an uncommon methodology for 12:23:16  
 11 him, by the way. I mean, we had done the United 12:23:20  
 12 transaction in 14 days or something back in 1990 and 12:23:22  
 13 '91. 12:23:31  
 14 If you accepted that premise, I mean, it 12:23:31  
 15 would not -- it literally would not have been possible 12:23:31  
 16 to convene that Board within less than a few weeks. I 12:23:33  
 17 mean, they were pretty punctilious about their 12:23:37  
 18 scheduling and so forth and so on. 12:23:40  
 19 Q. So at the time, you didn't see anything 12:23:42  
 20 inappropriate about it or -- 12:23:43  
 21 A. He told me the executive committee had 12:23:45  
 22 approved it. I mean -- 12:23:46  
 23 Q. I guess I'm referring to, you didn't see 12:23:47  
 24 anything improper at the time about him going to the 12:23:49  
 25 executive committee rather than going to the full 12:23:52

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1 Board? 12:23:54  
 2 A. I had been apprised that the executive 12:23:55  
 3 committee had the authority to act on behalf of the 12:23:57  
 4 Board. The general counsel told me that. And he was 12:23:59  
 5 the CEO. If they didn't want him to go quickly, they 12:24:03  
 6 shouldn't have given him the approval. 12:24:08  
 7 But he told me he had the approval, and 12:24:10  
 8 I -- let's put it this way: The general counsel was 12:24:11  
 9 in the middle of this transaction too. In fact, she 12:24:14  
 10 was one of the three people who approved the 12:24:18  
 11 transaction on behalf of Allegheny, quote/unquote, 12:24:19  
 12 SDN. And he made the representation to her on the 12:24:24  
 13 phone, I can remember pretty distinctly, that the 12:24:28  
 14 executive committee had approved the transaction, and 12:24:31  
 15 I didn't hear a whimper or protest at that point from 12:24:34  
 16 her. 12:24:39  
 17 Given that circumstance and given the fact 12:24:39  
 18 that she was the senior legal officer, I -- I mean, 12:24:42  
 19 had she said at that point, Well, we can't just do 12:24:44  
 20 this in front of the executive committee, that's a 12:24:46  
 21 perfectly legitimate point of view. But it was her 12:24:50  
 22 call as to how the approval got done. 12:24:53  
 23 Q. So at that point, you didn't really have any 12:24:55  
 24 concerns about -- 12:24:57  
 25 A. It's not a matter of not having concerns.

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1 Q. -- what they were doing? 12:24:59  
 2 A. It's a matter of what chair you're sitting 12:24:59  
 3 in. I mean, were we operating under the 12:25:04  
 4 Sarbanes-Oxley rules now, I might have made a noisy 12:25:07  
 5 withdrawal. There weren't any noisy withdrawals in 12:25:11  
 6 those days. I mean, the GC knew what was going on, 12:25:13  
 7 knew who had approved the transaction, and not only 12:25:16  
 8 implicitly accepted it, but went ahead and formally 12:25:18  
 9 approved it as a director of the entity that was doing 12:25:21  
 10 the deal. 12:25:24  
 11 Q. Did you raise any concerns with anyone other 12:25:25  
 12 than -- or anyone about going to the executive 12:25:26  
 13 committee? 12:25:30  
 14 A. My recollection is that when he and I talked 12:25:30  
 15 about this on the phone, I said, Don't you think it 12:25:33  
 16 would be a good idea to go to the full Board? 12:25:35  
 17 He said, We don't have time to do that. 12:25:37  
 18 The executive committee has the authority. Let's move 12:25:38  
 19 on, or words to that effect. 12:25:40  
 20 Q. At that point, did you think -- did you have 12:25:43  
 21 concerns about what he -- after he told you that, did 12:25:46  
 22 you still have concerns about whether it was 12:25:49  
 23 appropriate to go to the executive committee rather 12:25:50  
 24 than the full Board? 12:25:52  
 25 A. No, because the general counsel had told me 12:25:54

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1 hadn't actually happened, that these people hadn't 12:26:57  
 2 actually approved it. And to suggest otherwise would 12:27:00  
 3 have been -- never mind. Would have resulted in my -- 12:27:02  
 4 let's put it this way: It wouldn't have been a 12:27:07  
 5 concern anymore because I wouldn't have been working 12:27:10  
 6 there anymore.  
 7 Q. So at that point, you didn't say anything 12:27:11  
 8 more to anyone? 12:27:13  
 9 A. I didn't know who I was supposed to say 12:27:14  
 10 anything to. I mean, he told me that the executive 12:27:15  
 11 committee had approved it. 12:27:18  
 12 Q. When did your involvement first start with 12:27:19  
 13 the GHS transaction? 12:27:20  
 14 A. Late. It was late in June. Dr. Turtz called 12:27:22  
 15 me, I'd say, mid June. As I think I said earlier, 12:27:24  
 16 Dr. Turtz called me and said, We've been talking to 12:27:28  
 17 Graduate, it looks like something may happen, you may 12:27:32  
 18 get a call from Bernie Korman's lawyer, Marc 12:27:39  
 19 Cornblatt, I want you to -- and he gave me a little 12:27:42  
 20 bit of background on the transaction. And he said, I 12:27:45  
 21 want you to think about what needs to be done here and 12:27:48  
 22 the papers and so forth and so on. 12:27:50  
 23 And then within some period of time after 12:28:00  
 24 that, I think I got a call from Abdelhak telling me 12:28:00  
 25 what he thought the deal was and saying he wanted me 12:28:00

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1 that the executive committee had that authority. I 12:25:56  
 2 mean, to the extent I would have had any, they would 12:25:58  
 3 certainly have vanished when she participated fully, 12:26:00  
 4 openly and knowingly in the approval of this 12:26:03  
 5 transaction. 12:26:05  
 6 I mean -- and considering the fact that 12:26:06  
 7 she spent a full ten days with the chairman of the 12:26:09  
 8 Board, approximately that amount of time, immediately 12:26:12  
 9 following this, I think had there been problems, they 12:26:14  
 10 would have come to light immediately. And I'm not 12:26:16  
 11 aware that there were any. In fact, the transaction 12:26:18  
 12 proceeded. 12:26:21  
 13 I mean, would I have preferred that they'd 12:26:22  
 14 gone to the full Board? Sure. Absolutely. 12:26:24  
 15 Q. So after you talked with Mr. Abdelhak and 12:26:29  
 16 what you've just described occurred, at that point you 12:26:33  
 17 didn't raise any more concerns with any other 12:26:35  
 18 individuals? 12:26:38  
 19 A. I'm not sure who I was supposed to raise it 12:26:38  
 20 with. I mean, the general counsel knew about it. The 12:26:40  
 21 CEO knew about it. The Board had approved it. The 12:26:42  
 22 chairman of the Board had been represented to me as 12:26:46  
 23 approving it. He went off and spent time with them 12:26:50  
 24 following this. 12:26:53  
 25 I mean, there was never a whiff that this 12:26:54

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1 to prepare a set of resolutions similar to what we had 12:28:03  
 2 done in the Hahnemann thing that memorialized the deal 12:28:04  
 3 in that format and to send it to him. 12:28:06  
 4 And I sent them to him, and I remember -- 12:28:08  
 5 and this would have been late June, early July. I 12:28:12  
 6 remember I was at my parents' house over in New 12:28:14  
 7 Jersey, because I was talking to him on the phone from 12:28:16  
 8 there on the weekend and we were going over the 12:28:17  
 9 documents, and that sort of initiated the process. 12:28:20  
 10 And then we went very quickly after that. I would say 12:28:23  
 11 probably not more than three weeks more. So this may 12:28:25  
 12 have been early to mid July when this conversation 12:28:31  
 13 occurred. 12:28:34  
 14 Q. In your role as corporate secretary or 12:28:38  
 15 assistant secretary of SDN, did you sit in on Board 12:28:40  
 16 meetings of SDN? 12:28:44  
 17 A. I sat in on the one that approved that 12:28:45  
 18 transaction. 12:28:47  
 19 Q. But did you generally sit in on Board 12:28:48  
 20 meetings? 12:28:49  
 21 A. No. I don't think they had that many Board 12:28:50  
 22 meetings, to be perfectly honest with you. I mean, 12:28:53  
 23 Wynstra was an officer as well. She was, if I recall 12:28:55  
 24 correctly, the full secretary, so she didn't feel -- 12:28:58  
 25 Q. So you didn't have to sit there and take 12:29:00

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1 notes of minutes of meetings or anything like that? 12:29:02  
 2 A. No. I happened to be in the pivotal one, 12:29:04  
 3 which was the one that was conducted by conference 12:29:07  
 4 telephone. 12:29:09  
 5 Interestingly enough, I think he probably 12:29:11  
 6 wanted me there intentionally, precisely because -- 12:29:13  
 7 and as I look back, it may relate to this other issue, 12:29:18  
 8 which was that he wanted someone outside the group of 12:29:22  
 9 those three people to see that that transaction had 12:29:24  
 10 been approved and that the general counsel had been 12:29:26  
 11 involved to approve it. 12:29:28  
 12 As I look back on it, that -- but the 12:29:30  
 13 lawyers, as I said earlier, were rarely, rarely 12:29:32  
 14 brought into Board meetings other than the general 12:29:37  
 15 counsel. I mean, you didn't get into a Board meeting 12:29:39  
 16 unless you had a specific issue to discuss that 12:29:42  
 17 related to a specific project or area of 12:29:45  
 18 responsibility for which you had responsibility. And 12:29:50  
 19 when your piece was done, you got up and left. 12:29:50  
 20 Q. So just to make sure I got it right, at that 12:29:52  
 21 conference call, that's when Abdelhak represented that 12:29:54  
 22 he had spoken -- or gotten -- secured the approval of 12:29:56  
 23 the Board and -- 12:29:59  
 24 A. Of the executive committee, yeah. 12:30:00  
 25 Q. Of the executive committee. And that's when 12:30:01

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1 just -- 12:31:06  
 2 A. Everything. 12:31:07  
 3 Q. So the whole AHERF system, Nancy Wynstra -- 12:31:07  
 4 A. I mean, have you had any problems finding 12:31:11  
 5 Board minutes from 1998 when all this was going on? 12:31:12  
 6 Q. I found some of them. Not all of them, but I 12:31:14  
 7 found some. 12:31:17  
 8 A. Well, I would say that from -- she was 12:31:18  
 9 probably at least -- six may be an exaggeration. She 12:31:21  
 10 was probably three or four months delinquent on her 12:31:25  
 11 Board minutes. 12:31:27  
 12 But it was made -- when I first got there, 12:31:28  
 13 they had other people drafting Board minutes. They 12:31:30  
 14 also had lawyers going to Board meetings. After 12:31:32  
 15 about, I'd say, in mid to late '93, that all changed. 12:31:35  
 16 Q. Was this with respect to the AHERF parent 12:31:40  
 17 entity -- 12:31:43  
 18 A. Everything. 12:31:44  
 19 Q. -- Board meetings or just within the AHERF 12:31:44  
 20 system, she was the one -- 12:31:46  
 21 A. Within the AHERF system. 12:31:47  
 22 Q. -- who did the minutes? 12:31:49  
 23 A. She went to the Board meetings. She did the 12:31:49  
 24 minutes. 12:31:51  
 25 Q. Got it.

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1 Nancy Wynstra would have heard or been involved and 12:30:03  
 2 that wanted you to witness -- 12:30:07  
 3 A. Yeah. She was in Scotland. They were having 12:30:08  
 4 a conference call. We were sitting up in the 12:30:10  
 5 president's conference room on the 19th floor. He and  
 6 McConnell and I were sitting there. She's on the 12:30:12  
 7 conference call. They go through a little discourse 12:30:14  
 8 about the deal. He says, It's been approved by the 12:30:17  
 9 executive committee, been approved by the Graduate 12:30:23  
 10 Board, blah, blah, blah, blah, blah. 12:30:25  
 11 I believe, if I recall correctly, we had 12:30:26  
 12 actually faxed her copies of the documents, so she had 12:30:28  
 13 them in front of her. And they had a little formal 12:30:33  
 14 Board meeting and they said, you know, da, da, da, da, 12:30:37  
 15 and that was it. 12:30:38  
 16 By the way, there's another important 12:30:40  
 17 point to understand here. Even if there were other 12:30:43  
 18 people sitting in Board meetings, lawyers, for 12:30:45  
 19 example, the only person who was allowed to write 12:30:48  
 20 Board minutes was Wynstra. In fact, when the collapse 12:30:51  
 21 finally came, she was six months behind on her Board 12:30:56  
 22 minutes, because they had been having so many 12:30:59  
 23 emergency Board and committee meetings and so forth 12:31:01  
 24 and so on. 12:31:03  
 25 Q. Are you talking about with respect to SDN or 12:31:04

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1 A. You tell me what that means. 12:31:51  
 2 Q. The minutes were presented to the Board in 12:31:54  
 3 subsequent meetings -- 12:31:57  
 4 A. Yes. 12:31:58  
 5 Q. -- to be ratified; is that right? 12:31:58  
 6 A. Yeah. Correct. 12:32:00  
 7 Q. So the Board members would obviously review 12:32:01  
 8 the minutes from the prior meeting just as a matter of 12:32:03  
 9 course, right? 12:32:07  
 10 A. Right. 12:32:09  
 11 MR. COGAN: Objection. 12:32:10  
 12 BY MR. TERUYA:  
 13 Q. Presumptively? 12:32:10  
 14 A. Occasionally when I saw them, yes. I saw 12:32:12  
 15 Board packages that had minutes in them, let's put it 12:32:15  
 16 that way. Whether they approved them or not is 12:32:17  
 17 unknown to me. 12:32:31  
 18 MR. COGAN: What are we going to do about 12:32:31  
 19 lunch? It's about 25 to 1:00. 12:32:31  
 20 MR. TERUYA: Want to go off the record for 12:32:31  
 21 a moment? 12:32:31  
 22 THE WITNESS: Sure. 12:32:31  
 23 VIDEO TECHNICIAN: We are now going off 12:32:31  
 24 the videotape record. The time, 12:38. 12:32:33  
 25 (Short luncheon recess.)

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1 VIDEO TECHNICIAN: Back on. The time, 13:13:41  
 2 1:20. 13:13:42  
 3 BY MR. TERUYA:  
 4 Q. Good afternoon. 13:13:48  
 5 A. Good afternoon. 13:13:49  
 6 Q. I think when we left off, we were talking 13:13:51  
 7 about your role at SDN as corporate secretary. 13:13:53  
 8 A. Yes. That's correct. 13:13:57  
 9 Q. And did you play any role in terms of 13:14:00  
 10 advising the Board of SDN as to any of its decisions? 13:14:02  
 11 A. No, not really. Not really. 13:14:06  
 12 Q. Do you recall any dissent expressed at any 13:14:11  
 13 Board meetings you might have witnessed? 13:14:14  
 14 A. No. As I said, I think the only one I ever 13:14:17  
 15 actually witnessed was the three-person one on August 13:14:20  
 16 the 5th or 6th, whatever the date was, approving the 13:14:23  
 17 Graduate transaction. I don't recall having gone to 13:14:26  
 18 others. 13:14:30  
 19 I may have gone -- I think I went to at 13:14:30  
 20 least one Board meeting subsequently after it became 13:14:32  
 21 Allegheny Hospitals, Centennial, when it had a, what 13:14:39  
 22 I'll call, real Board. But even at those Board 13:14:42  
 23 meetings, even at the real Board meetings, the few 13:14:46  
 24 that I attended, there was rarely any dissent. I 13:14:49  
 25 mean, the thing I told you about in September of '96 13:14:52

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1 was highly unusual where there was kind of a 13:14:55  
 2 controversy about what had happened. Because it just 13:14:58  
 3 wasn't encouraged; that's all. 13:15:05  
 4 Q. Do you know how many Board members were upset 13:15:07  
 5 about not being notified in advance about the GHS 13:15:10  
 6 acquisition? 13:15:13  
 7 A. There were not that many. I mean, there were 13:15:14  
 8 several. Several people were raising the issue. 13:15:16  
 9 The -- I thought a little bit more about this while we 13:15:19  
 10 were off, and the reason that he cited for moving 13:15:23  
 11 forward so quickly, in addition to Korman's departure, 13:15:28  
 12 was, he was very concerned that Korman was getting -- 13:15:31  
 13 either was getting cold feet or that his Board was not 13:15:34  
 14 entirely in line with this. 13:15:40  
 15 And I think it's important that -- I 13:15:41  
 16 heard, I cannot confirm it by my own knowledge, that 13:15:44  
 17 Mr. Cramer, who had been sort of Korman's alter ego on 13:15:46  
 18 that Board, was opposed to do the Allegheny 13:15:51  
 19 transaction and was sort of -- didn't block it, but 13:15:53  
 20 was not enthusiastically in favor of it. 13:15:58  
 21 And I think one of the reasons that Sherif 13:16:02  
 22 cited was he was concerned that if they waited two or 13:16:04  
 23 three weeks, that the transaction might not get done, 13:16:06  
 24 because there would be more dissent on the Graduate 13:16:08  
 25 Board. 13:16:11

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1 As it was, they apparently had a difficult 13:16:11  
 2 Board meeting the day before they approved the 13:16:13  
 3 transaction, which involved some fairly heated 13:16:16  
 4 discussion, according to what I was told. I wasn't 13:16:20  
 5 there, obviously. 13:16:22  
 6 So, no. It was highly unusual, but the 13:16:23  
 7 reality of the situation is that the people who were 13:16:26  
 8 sitting in that Board meeting in Philadelphia wouldn't 13:16:30  
 9 have been the ones approving the transaction anyway. 13:16:33  
 10 I mean, that would have been the AHERF Board, which 13:16:36  
 11 were not the people that we were talking about. I 13:16:38  
 12 mean, they were kind of complaining because it was a 13:16:40  
 13 Philadelphia area transaction that they hadn't been 13:16:43  
 14 involved in. But they would not have had the say-so 13:16:45  
 15 anyway. 13:16:47  
 16 Some of them would have been on the AHERF 13:16:48  
 17 Board, but they wouldn't have been the ones making the 13:16:50  
 18 decision. 13:16:52  
 19 Q. Is it your understanding that that's -- 13:16:53  
 20 circumstances where there was a need to act quickly 13:16:55  
 21 were the reason for the existence of the executive 13:16:58  
 22 committee of the AHERF Board? 13:17:01  
 23 A. Yeah. That's correct. And that was what he 13:17:02  
 24 cited, both to me and to others, in terms of why he 13:17:03  
 25 moved forward that way. 13:17:06

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1 Q. And I take it that's like the whole, like, 13:17:09  
 2 point of existence of the executive committee, to be 13:17:11  
 3 able to act quickly? 13:17:14  
 4 A. Correct. I mean, that's exactly right. Or, 13:17:17  
 5 I mean, occasionally it's not just desire to move 13:17:18  
 6 quickly, but where you think you've got something 13:17:20  
 7 that's sort of very sensitive information that you 13:17:22  
 8 don't want to share with a larger group. 13:17:24  
 9 But I would say that the primary reason 13:17:26  
 10 ordinarily that people make use of an executive 13:17:28  
 11 committee and empower one is to get things done more 13:17:31  
 12 quickly than you could with a full board, particularly 13:17:33  
 13 where you have large non-profit boards, which may be 13:17:35  
 14 much larger than the equivalent boards in a publicly 13:17:38  
 15 traded corporation, for example. 13:17:41  
 16 Q. And if, for example, something happens 13:17:43  
 17 between quarterly Board meetings and there's a need to 13:17:45  
 18 act sooner than the next Board meeting --  
 19 A. Exactly right. It's very hard with community 13:17:49  
 20 boards, which is what non-profits basically have, to 13:17:51  
 21 call special Board meetings. I mean, you've got to -- 13:17:53  
 22 peoples' schedules of -- they used to publish the 13:17:56  
 23 Board schedules way, way, way in advance so people 13:17:58  
 24 would have full notice and so forth and so on. 13:18:01  
 25 Now, obviously there are things that 13:18:03

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1 permit you to do things like conference telephone and 13:18:04  
 2 all the rest of it, but for all intents and purposes, 13:18:07  
 3 you've got to get the same amount of participation 13:18:09  
 4 you'd have in person. So that's not necessarily an 13:18:12  
 5 answer. 13:18:21  
 6 Q. I'm going to turn back for one moment to the 13:18:21  
 7 smaller document with tabs that we marked, which I 13:18:23  
 8 believe was Exhibit No. 988. If you turn for a second 13:18:26  
 9 to Tab 7, which precedes the document with Bates 13:18:38  
 10 number PH7402 through 7403. 13:18:43  
 11 A. Yes. 13:18:49  
 12 Q. Do you recognize this document? It says 13:18:51  
 13 Certificate at the top. 13:18:53  
 14 A. Yes. 13:18:57  
 15 Q. Do you see on the second page the first 13:19:00  
 16 paragraph says, "Further resolved that the annual 13:19:02  
 17 extension of the" meeting agreement -- I'm sorry; 13:19:05  
 18 "management agreement between SDN, Inc. and AHERF 13:19:08  
 19 dated July 1, 1992 (the management agreement) is 13:19:11  
 20 hereby approved"? 13:19:14  
 21 A. Mm-hmm. 13:19:16  
 22 Q. Do you know what that refers to? 13:19:17  
 23 A. Yeah. I believe when SDN -- when the United 13:19:20  
 24 deal happened, my recollection is that there was 13:19:25  
 25 created a management agreement under which AHERF was 13:19:28

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1 And, of course, for the period of whatever 13:20:43  
 2 it ended up being, eight months, between the beginning 13:20:48  
 3 of August and the end of May, you really needed a 13:20:52  
 4 mechanism like this, because SDN was kind of sitting 13:20:54  
 5 on its own outside the system. 13:20:57  
 6 Q. And do you recall when -- I mean, is this 13:20:58  
 7 July 1, 1992 date the execution date for the 13:21:02  
 8 management agreement? 13:21:05  
 9 A. That's my best recollection. It may have 13:21:05  
 10 been executed -- it may have been signed subsequently, 13:21:07  
 11 effective as -- with a pre-dated effective date. I 13:21:11  
 12 just don't remember. 13:21:14  
 13 Q. And it seems from this paragraph that the 13:21:15  
 14 agreement is extended every year, basically ratified 13:21:18  
 15 or reapproved every year? 13:21:21  
 16 A. Yeah. I think, as I recall, it had either a 13:21:23  
 17 one-year or multi-year term, with automatic renewals, 13:21:27  
 18 unless either party terminated, and no one had ever 13:21:30  
 19 terminated it. It had been in effect for, what, four 13:21:34  
 20 years at this point. 13:21:37  
 21 Q. Are you aware of whether at any point the 13:21:38  
 22 agreement was terminated? 13:21:39  
 23 A. I don't know. I mean, I would -- I would -- 13:21:41  
 24 well, that's an interesting question. I mean, it 13:21:44  
 25 certainly wouldn't have been necessary to have it in 13:21:46

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1 actually rendering services to SDN, because SDN, for a 13:19:32  
 2 period of time after the United deal, actually had a 13:19:37  
 3 couple of subsidiaries which were in, what I'll call, 13:19:40  
 4 runoff, and a couple -- one was sold, as I recall. A 13:19:43  
 5 couple were kind of wound down and so forth. So they 13:19:46  
 6 actually had a need of services. I mean, they were 13:19:49  
 7 actually doing some functioning things, or their 13:19:53  
 8 subsidiaries were. 13:19:55  
 9 And that's the document that's -- I think 13:19:56  
 10 it was a simple form agreement. I mean, it just said 13:20:00  
 11 basically that they'd rendered the services and SDN 13:20:02  
 12 would reimburse them the cost. I don't know whether 13:20:05  
 13 there was actually any reimbursement ever paid. 13:20:08  
 14 And so what it was designed to do was to 13:20:09  
 15 ratify and approve that document and then allow SDN to 13:20:14  
 16 use those services for the benefit of the GHS 13:20:21  
 17 enterprise. So, yes. 13:20:26  
 18 Q. So certain key members under this contract of 13:20:27  
 19 AHERF's management would provide management services 13:20:29  
 20 to SDN? 13:20:32  
 21 A. Maybe not even key people. It might be 13:20:33  
 22 people in accounting. It might be people in finance 13:20:35  
 23 or legal, or whatever it might be. The notion was 13:20:37  
 24 that they would do whatever is needed to kind of 13:20:40  
 25 operate this enterprise. 13:20:42

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1 effect once SDN came into the system, but nobody may 13:21:49  
 2 have bothered to terminate it. I mean, it may just 13:21:53  
 3 have been an oversight. 13:21:55  
 4 Q. But at least as of the date of this document, 13:21:56  
 5 is it consistent with your recollection that the 13:21:57  
 6 agreement still existed? And the date of this 13:22:00  
 7 document being August 5, 1996. 13:22:03  
 8 A. Yes. Yes. 13:22:05  
 9 Q. Do you recall why the decision was made to 13:22:10  
 10 use SDN in the acquisition of the former GHS entities? 13:22:14  
 11 A. Sure. Because it had a tax exemption and it 13:22:20  
 12 was not within the Allegheny system. And because of 13:22:22  
 13 his timing considerations, Mr. Abdelhak did not want 13:22:26  
 14 the Graduate transaction to occur through an entity 13:22:31  
 15 that was within the AHERF system, because he would 13:22:33  
 16 have had to go through a Hart-Scott-Rodino review 13:22:35  
 17 process, which would have taken two, three, four 13:22:38  
 18 months, whatever it would have taken. 13:22:40  
 19 So I seem to recall that there was a 13:22:42  
 20 conversation between several of us, including 13:22:45  
 21 McConnell, and somebody made the suggestion, and I do 13:22:48  
 22 not remember who that was, they said, Well, you know, 13:22:54  
 23 SDN is still around, we basically got control of that 13:22:55  
 24 entity, I mean, let's use that. It's tax exempt, it 13:22:58  
 25 won't cause any problems with the bonds, et cetera, et 13:23:00

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 19 So I seem to recall that there was a 13:22:42  
 20 conversation between several of us, including 13:22:45  
 21 McConnell, and somebody made the suggestion, and I do 13:22:48  
 22 not remember who that was, they said, Well, you know, 13:22:54  
 23 SDN is still around, we basically got control of that 13:22:55  
 24 entity, I mean, let's use that. It's tax exempt, it 13:22:58  
 25 won't cause any problems with the bonds, et cetera, et 13:23:00

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1 rules for university physicians. Don't be ridiculous. 16:07:48  
 2 I mean, he just persuaded that this thing 16:07:51  
 3 was there. So... 16:08:03  
 4 Q. Do you know what the final resolution was 16:08:03  
 5 with respect to the incentive program you're talking 16:08:03  
 6 about? 16:08:03  
 7 A. He didn't do it. I mean, this was weeks 16:08:03  
 8 before he left. 16:08:03  
 9 Q. And you're talking about a program where 16:08:06  
 10 physicians would be paid to refer patients? 16:08:06  
 11 A. Well, it wasn't really paid -- it was much 16:08:08  
 12 more subtle than that. It was an incentive program 16:08:10  
 13 based on profitability of their practice, which 16:08:14  
 14 combines both revenue and expense control and so forth 16:08:19  
 15 and so on. I mean, it was not an uncreative idea. 16:08:22  
 16 It's just the rules don't work --  
 17 Q. Some kind of profit-sharing arrangement? 16:08:25  
 18 A. Sort of, yeah. Incremental profitability 16:08:27  
 19 arrangement, yeah. Loss reduction, whatever you want 16:08:30  
 20 to call it. I mean, you can call it a variety of 16:08:32  
 21 names, but it was not -- but it just wasn't doable. I 16:08:36  
 22 mean, it was not -- but I cite it not for the 16:08:38  
 23 particular thing, but for the fact that he just 16:08:40  
 24 persuaded himself there was this thing in the law that 16:08:42  
 25 wasn't there. And I knew it wasn't there and 16:08:45

1 McConnell and Wynstra were really the two he kind of 16:09:42  
 2 kept close, who despised each other. And I'm 16:09:44  
 3 convinced he purposely kept two people who despised 16:09:47  
 4 each other. 16:09:49  
 5 Q. You said Wynstra and McConnell despised each 16:09:49  
 6 other? 16:09:51  
 7 A. Oh, they couldn't stand the sight of each 16:09:52  
 8 other. And I think that was intentional on his part. 16:09:53  
 9 He kind of kept them on their toes by having them 16:09:57  
 10 fighting with each other instead of fighting with him. 16:10:00  
 11 But those, as far as I know, were the only 16:10:03  
 12 people he was listening to. I don't know whether he 16:10:05  
 13 talked to Board members or not. I never saw any 16:10:08  
 14 evidence of it. 16:10:10  
 15 Q. Did you have any opinion of David McConnell? 16:10:11  
 16 A. Yeah. Smart, dishonest. Smart and 16:10:14  
 17 dishonest. I mean, he's a smart guy, but I wouldn't 16:10:22  
 18 trust him as far as I could throw him up a flight of 16:10:26  
 19 stairs. 16:10:27  
 20 Q. Why did you think he was dishonest? 16:10:27  
 21 A. Because I just thought he was. I don't think 16:10:28  
 22 he was trustworthy. I mean, just based on his general 16:10:30  
 23 demeanor. He also was mean. I mean, he was a guy who 16:10:33  
 24 would take a lot of pleasure in sort of doing things 16:10:37  
 25 to people. 16:10:39

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1 everybody else he talked to knew it wasn't there, but 16:08:47  
 2 he didn't want to hear it, wouldn't have it. 16:08:49  
 3 Q. Do you know if the hubris that you're 16:08:51  
 4 mentioning was also shared by any of the Board members 16:08:52  
 5 in Pittsburgh?  
 6 A. I do not know.  
 7 MR. COGAN: Objection. 16:08:56  
 8 THE WITNESS: I don't know. 16:08:57  
 9 BY MR. TERUYA:  
 10 Q. Did you ever get the sense that the Board was 16:08:59  
 11 doing things that, in your mind, reflected hubris on 16:09:02  
 12 their part? 16:09:04  
 13 A. I knew so little about what the Board was 16:09:05  
 14 doing, that -- I was so far removed from the Board and 16:09:07  
 15 I saw so little of their activities and what they were 16:09:09  
 16 doing, that I wouldn't even begin to know how to 16:09:14  
 17 answer that. 16:09:16  
 18 Q. Do you know who Mr. Abdelhak's top advisors 16:09:21  
 19 were for business planning and strategy matters? 16:09:24  
 20 A. Well, I mean, the people he kept around were 16:09:29  
 21 Wynstra and McConnell and Kasberbauer. I mean, those 16:09:31  
 22 were the three people who were there, period, as far 16:09:34  
 23 as I know. 16:09:36  
 24 Q. That's Dwight Kasberbauer?  
 25 A. Yeah. Well, he was the HR guy. I mean, 16:09:39

1 You know, just a personal impression. I 16:10:42  
 2 mean, there's nothing specific I can point to. He's 16:10:44  
 3 the kind of guy you use the Wild Bill Hickock rule 16:10:48  
 4 with. Don't play cards unless your back is to the 16:10:51  
 5 corner or you got a mirror in front of you. 16:10:54  
 6 Q. How about Nancy Wynstra; did you have any 16:10:57  
 7 opinion of her? 16:10:59  
 8 A. Nancy was, in many ways, a very pleasant 16:11:00  
 9 person. I think she was hopelessly in over her head 16:11:02  
 10 as general counsel in an organization. I don't think 16:11:05  
 11 she had the legal qualifications to do it. And her 16:11:08  
 12 lack of legal qualifications was compounded by the 16:11:10  
 13 fact that she spent most of her time traveling at the 16:11:13  
 14 company's expense. She was rarely around. 16:11:15  
 15 She refused to delegate decision-making 16:11:19  
 16 authority. I mean, she was a control freak of the 16:11:22  
 17 worst kind, but -- on the one hand, she refused to 16:11:26  
 18 delegate the decision-making authority, but on the 16:11:28  
 19 other hand, she either wasn't there to make decisions 16:11:30  
 20 or when she was there, wouldn't make them. 16:11:32  
 21 So, I mean, the only good thing was that 16:11:35  
 22 she was pretty laissez faire about our work. She 16:11:40  
 23 didn't interfere too much with the work. And that 16:11:44  
 24 was, I think, the only reason a lot of the legal work 16:11:47  
 25 got done, was we just went about doing our jobs. 16:11:49

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1 Q. So you could still get things done because of 16:11:53  
 2 her hands-off policy? 16:11:56  
 3 A. Yeah. Right. I mean, she -- there were 16:11:57  
 4 times when you couldn't. I mean, it really depended 16:11:58  
 5 on the nature of the matter, but sometimes you'd just 16:12:00  
 6 take things into your own hands and just go ahead and 16:12:03  
 7 do them, because you had to. I mean, they would go on 16:12:05  
 8 for weeks and months and so forth. And, I mean, she 16:12:08  
 9 was traveling all the time. 16:12:10  
 10 Q. Did you raise any concerns about her travel 16:12:11  
 11 and failure to make certain decisions with anyone? 16:12:14  
 12 A. That's an interesting story. I was told, by 16:12:20  
 13 the way, that McConnell at one point performed an 16:12:22  
 14 audit of her traveling and found out how many days she 16:12:24  
 15 was out of the office. And I never saw it. 16:12:26  
 16 Abdelhak was very precise about the fact 16:12:29  
 17 he didn't want people circumventing the command 16:12:31  
 18 structure. In other words, if I had a problem, I had 16:12:45  
 19 to go to her. 16:12:45  
 20 The guy who had been the Hahnemann 16:12:45  
 21 counsel, Bill Kennedy, egged on by Dave McConnell and 16:12:45  
 22 by Tony Sanzo, at the time was the CEO of Allegheny 16:12:48  
 23 General Hospital, actually at one point in the summer 16:12:53  
 24 of '97 -- summer of '97 I'm pretty sure, maybe it was 16:12:55  
 25 early in '97 -- actually confronted Abdelhak and said, 16:13:02

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1 Wynstra is not doing her job. She's not paying 16:13:07  
 2 attention. She's never here, da-da, da-da, da-da, 16:13:10  
 3 da-da, da-da. And Abdelhak just tore him apart and 16:13:14  
 4 said, How dare you come in here and do this and so 16:13:18  
 5 forth and so on. And of course, the end result was, 16:13:20  
 6 the guy left. But he left with a termination payment 16:13:23  
 7 before the preference period, so there's something to 16:13:26  
 8 be said for it. Anyway... 16:13:29  
 9 No. So, I mean, I think he was conscious 16:13:31  
 10 of her deficiencies. I think he probably kept her in 16:13:34  
 11 the job because of her deficiencies. You know, 16:13:36  
 12 looking back, I don't think he wanted anybody who was 16:13:38  
 13 paying a lot of attention to what was going on. 16:13:41  
 14 Q. Did you ever think to raise any concerns with 16:13:43  
 15 anyone outside of the chain of command? 16:13:46  
 16 A. Who was I supposed to do it with? 16:13:49  
 17 Q. Write a letter to a Board member or anything 16:13:51  
 18 like that? 16:13:53  
 19 A. That would have been fruitless. I mean, you 16:13:54  
 20 have to understand the way the organization worked. I 16:13:57  
 21 mean, they reposed complete confidence in Sherif 16:14:00  
 22 Abdelhak. And if you had done that, not only would it 16:14:04  
 23 have resulted in my instant dismissal, which would 16:14:06  
 24 have been what it was -- and, I mean, there were times 16:14:11  
 25 when I did things that I thought might get me fired, 16:14:13

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1 like with this business with Chuck Morrison and the 16:14:15  
 2 restricted funds and drafting this resolution. But it 16:14:17  
 3 would have gone ignored, and who knows, they might 16:14:21  
 4 have sued me for slander, for all I know. I mean, 16:14:24  
 5 they just were not having any of it. 16:14:26  
 6 It was a single-person-controlled 16:14:29  
 7 organization, and that extended to the Board as well 16:14:35  
 8 as to the staff. I mean, it may sound cowardly to say 16:14:37  
 9 it, but that's just the reality of what it was. 16:14:44  
 10 In a situation like that, you say to 16:14:47  
 11 yourself, Well, do I want to do what Kennedy did and 16:14:49  
 12 get tossed out of here, or do I want to keep trying to 16:14:53  
 13 do the job here, keep things on track, try and make 16:14:57  
 14 sure that things are done properly? Because I knew if 16:15:01  
 15 Nancy was in charge other than day to day, there 16:15:05  
 16 wouldn't be, and so forth. 16:15:07  
 17 I mean, you have conversations with 16:15:08  
 18 yourself about things like that a lot. It's not the 16:15:09  
 19 easiest thing in the world. 16:15:11  
 20 Q. Do you know if anyone ever tried to write a 16:15:14  
 21 letter to the Board or have you ever heard that anyone 16:15:15  
 22 did? 16:15:19  
 23 A. No. I'm not aware of it. I'm not aware of 16:15:19  
 24 it. And I'm sure everybody else's perception was the 16:15:22  
 25 same as mine. 16:15:25

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1 I mean, the simple reality of the matter 16:15:26  
 2 was that the chairman of the Board had, up until he 16:15:28  
 3 fired him, he had the complete unequivocal, 16:15:31  
 4 unconditional support of the chairman of the Board and 16:15:35  
 5 of that cluster of people in that senior group, that 16:15:39  
 6 executive committee group. And I think he devoted a 16:15:42  
 7 lot of time to making sure that that was the case. 16:15:45  
 8 Q. How about any of the Board members outside of 16:15:49  
 9 that cluster? 16:15:52  
 10 A. What's that? 16:15:53  
 11 Q. In other words, any of the other AHERF parent 16:15:54  
 12 Board members. Did anyone -- 16:15:56  
 13 A. I have no idea. 16:15:59  
 14 Q. Did you ever think -- 16:16:00  
 15 A. I mean, I -- no. Nobody -- you just have to 16:16:01  
 16 understand, I mean, nothing was going to happen. They 16:16:05  
 17 had plenty of opportunity to raise issues. By the 16:16:12  
 18 middle of -- early to middle of '98, there were plenty 16:16:16  
 19 of warning signs out there that things were not going 16:16:19  
 20 well. And my personal view is that they just said, 16:16:21  
 21 We're not going to do anything here, because if we do 16:16:27  
 22 anything, it will show that we knew what was going on, 16:16:29  
 23 and we could blame the auditors, just between you and 16:16:31  
 24 me. Now, I realize that's your client, but I'm 16:16:35  
 25 telling you what my view is. We'll hide behind the 16:16:38

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1 financials and say everything was fine and so forth. 16:16:40  
 2 Q. So in your view, the Board basically wanted 16:16:43  
 3 to make like an ostrich and just stick their head in 16:16:45  
 4 the sand? 16:16:48  
 5 A. That seems to me like what they were doing. 16:16:48  
 6 MR. COGAN: Objection. 16:16:50  
 7 THE WITNESS: Never mind. Sorry. 16:16:51  
 8 BY MR. TERUYA:  
 9 Q. I just got a few wrap-up questions. 16:16:56  
 10 A. I mean, I don't know that to a moral 16:16:59  
 11 certainty. I'm just saying that it seems to me that 16:17:00  
 12 there were sufficient storm flags out there. And I 16:17:02  
 13 don't know what conversations were going on, because I 16:17:06  
 14 wasn't in meetings for a year or more before the final 16:17:08  
 15 thing. 16:17:12  
 16 I'm not sure I saw a Board member in 16:17:13  
 17 that -- actually, I did. I went to a meeting in the 16:17:15  
 18 summer of '98 because Wynstra was in San Diego. They 16:17:17  
 19 related to what they were going to do about the 16:17:22  
 20 faculty and how they were going to cut back on 16:17:25  
 21 faculty, and there were some complicated issues there 16:17:28  
 22 about the American Association of University 16:17:41  
 23 Professors and tenure rules and so forth and so on. 16:17:41  
 24 That was a mechanical meeting more or less. And these 16:17:41  
 25 people were attempting to deal in good faith with what 16:17:41

1 MR. COGAN: Objection. 16:18:46  
 2 THE WITNESS: I'm not sure I'm qualified 16:18:48  
 3 to saying that. People's motivations are pretty hard 16:18:49  
 4 to ferret out sometimes. I mean, you know, I've seen 16:18:52  
 5 people do a lot of selfish things in their life. I 16:18:55  
 6 don't know anybody who acted out -- who did that, but 16:18:57  
 7 I can't say for sure that there wasn't somebody. 16:18:59  
 8 BY MR. TERUYA: 16:19:06  
 9 Q. Okay.  
 10 A. I can say I didn't.  
 11 Q. Did you have any substantive discussions with 16:19:07  
 12 C&L employees, Coopers & Lybrand employees, during 16:19:12  
 13 your time at AHERF? 16:19:14  
 14 A. On a couple of occasions, relatively rare 16:19:16  
 15 occasions. I remember we had a discussion back in the 16:19:19  
 16 fall of '92 or sometime in '93 about a 337-B problem, 16:19:23  
 17 which was that McConnell wanted to do away with the 16:19:33  
 18 DHG, which owned the airplane, which had been 16:19:37  
 19 depreciated, and if he had done away with DHG, 337-B 16:19:41  
 20 would have required that Allegheny recognize a large 16:19:45  
 21 gain on disposition, because they would have had an 16:19:48  
 22 imputed fair market value relative to the depreciated 16:19:51  
 23 value. 16:19:54  
 24 We had run across this issue when I was at 16:19:56  
 25 Drinker before I came in there. It came up and 16:19:58

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1 was going on. 16:17:41  
 2 So there may have been efforts going on, 16:17:41  
 3 but you certainly didn't see it reflected in the 16:17:44  
 4 broader world. And it took them a long time to file, 16:17:48  
 5 which kind of surprised me. I mean, I wasn't entirely 16:17:52  
 6 sure why that happened, but... 16:17:55  
 7 Q. During your time at AHERF, do you personally 16:17:58  
 8 know of any AHERF employees who embezzled funds from 16:18:00  
 9 AHERF? 16:18:05  
 10 A. Oh, I remember we had a -- you mean AHERF 16:18:07  
 11 literally or any of the entities? 16:18:10  
 12 Q. Any of the AHERF entities. 16:18:11  
 13 A. We had an embezzlement case at St. 16:18:13  
 14 Christopher's back in the early '90s, as I recall,  
 15 right about the time I got there, somebody in the 16:18:17  
 16 payroll or accounting department or something. And 16:18:19  
 17 that got taken care of and the -- I've forgotten -- 16:18:24  
 18 DNO policy or something paid off on it. I mean, it 16:18:29  
 19 was an isolated event. 16:18:31  
 20 Q. Other than that? 16:18:32  
 21 A. I'm not aware of it. 16:18:33  
 22 Q. Do you personally know of any AHERF employee 16:18:35  
 23 who ever acted solely in his or her own personal 16:18:38  
 24 interest while acting in his capacity as an AHERF 16:18:41  
 25 employee? 16:18:45

1 surfaced again. 16:20:01  
 2 The Coopers people didn't seem to know too 16:20:06  
 3 much about it. I remember having a discussion with 16:20:07  
 4 somebody by telephone. I undoubtedly had some others. 16:20:11  
 5 I'm trying to think of one other I had. 16:20:15  
 6 Very rarely. I mean, you know, yeah, 16:20:21  
 7 occasionally I had had -- actually, it's interesting, 16:20:24  
 8 I had more interaction with the Coopers people back in 16:20:27  
 9 the '91, '92 time period when we were doing the United 16:20:30  
 10 transaction and so forth, and I was involved in a 16:20:35  
 11 number of discussions at that point with Bill Buettner 16:20:37  
 12 and various other people. We'd had some interaction 16:20:41  
 13 with them when they did the Levy practice 16:20:43  
 14 acquisitions, because Coopers had done the feasibility 16:20:45  
 15 on that. 16:20:47  
 16 There were Coopers people, Buettner was 16:20:48  
 17 one of them, at the due diligence meetings in the '96 16:20:51  
 18 transaction. I don't remember having any particular 16:20:54  
 19 substantive discussions with them as opposed to just 16:20:58  
 20 the rest of the group. 16:21:00  
 21 No. You know, I anticipated you were 16:21:01  
 22 going to ask me this. And I had very little 16:21:04  
 23 interaction with Coopers. I mean, that was -- it was 16:21:06  
 24 my impression that relationship was pretty much 16:21:09  
 25 controlled by McConnell. He did all the talking, and 16:21:11

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1 all of the communications to and from Coopers pretty 16:21:14  
 2 much came through his office. 16:21:17  
 3 Q. When you mentioned 337-B, that's a corporate 16:21:19  
 4 tax code? 16:21:22  
 5 A. Yes. That's the Internal Revenue code. It's 16:21:23  
 6 a provision that -- 16:21:25  
 7 Q. Of basis? 16:21:26  
 8 A. -- mandates recognition of distributions for 16:21:26  
 9 non-profits or to non-profits if taxables are wound up 16:21:29  
 10 or merged or whatever. It's to prevent non-profits 16:21:36  
 11 from setting up taxable subsidiaries, running taxable 16:21:38  
 12 businesses, depreciating assets. Then when they're 16:21:42  
 13 done with the business, giving the assets to the 16:21:46  
 14 non-profit and not having to recognize any gain, 16:21:48  
 15 because they've taken advantage of the loss on the 16:21:50  
 16 depreciation. That's the purpose of that provision. 16:21:54  
 17 Q. Do you recall any of the substance of your 16:21:56  
 18 discussions with Coopers & Lybrand about any of the 16:21:58  
 19 points you've mentioned? 16:22:01  
 20 A. No. I mean, there were -- there just weren't 16:22:02  
 21 that many. I mean, I'm sort of scouring my memory 16:22:06  
 22 banks. 16:22:10  
 23 No. I mean, I don't think I talked to 16:22:14  
 24 Bill for the last couple of years I was there. If I 16:22:16  
 25 did, he may have been on a conference call where there 16:22:21

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1 were multiple parties on it. It would not have been a 16:22:23  
 2 one-on-one conversation. 16:22:24  
 3 I would not have been -- I mean, I don't 16:22:28  
 4 think I ever talked to their auditors in the context 16:22:30  
 5 of an audit. I don't remember having -- I mean, 16:22:33  
 6 occasionally -- the one thing I remember looking at 16:22:49  
 7 their work product for was that every year, we would 16:22:49  
 8 do bond disclosure stuff, which included their 16:22:49  
 9 financials. I mean, we would get to see those kind of 16:22:49  
 10 before they were kind of put out to the general 16:22:52  
 11 public, and we would look at the disclosure and just 16:22:54  
 12 say whether we thought it was adequate or not. 16:22:55  
 13 And so -- but, no. I didn't see a lot 16:22:57  
 14 of -- five minutes -- I didn't see a lot of them, and 16:23:01  
 15 I don't recall having had a lot of discussions with 16:23:06  
 16 them. If somebody recalls having had a discussion 16:23:08  
 17 with me and can recite it, I'd be happy to recall it, 16:23:10  
 18 but I don't remember. 16:23:13  
 19 Q. Did you recall -- I mean, you said the 16:23:14  
 20 financial statements, the audited financial 16:23:16  
 21 statements, of Coopers & Lybrand were -- or of AHERF 16:23:17  
 22 that Coopers had audited were put into the bond 16:23:21  
 23 disclosures; is that right? 16:23:23  
 24 A. That's my recollection, yeah. I think that's 16:23:24  
 25 correct. 16:23:28

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1 Q. Were you in charge of reviewing those 16:23:28  
 2 statements? 16:23:30  
 3 A. No, I was not in charge. They distributed 16:23:31  
 4 them to a large number of people. I just happened to 16:23:33  
 5 be one of the people who got it. 16:23:35  
 6 Q. Did you ever see anything that you thought 16:23:36  
 7 was inappropriate or misstated? 16:23:37  
 8 A. No. I might have made minor amendments to 16:23:40  
 9 them, but there was nothing materially wrong with 16:23:44  
 10 them. I mean, by and large, it revolved around the 16:23:45  
 11 financials. I mean, the financials said what the 16:23:47  
 12 financials said. I mean, I didn't consider myself 16:23:50  
 13 competent to flyspeck the financials. 16:23:52  
 14 Q. Are you a creditor of AHERF? 16:23:56  
 15 A. Yes. 16:23:57  
 16 Q. Could you explain the nature of your credit 16:23:58  
 17 claim? 16:24:01  
 18 A. I think I know what the nature of it is. 16:24:02  
 19 They really didn't tell me. 16:24:04  
 20 I was a participant in the so-called 16:24:06  
 21 Execuflex Plan, which was a flexible benefits plan, 16:24:13  
 22 non-qualified, for senior executives. And what they 16:24:14  
 23 would do is, they would give you a specified sum of 16:24:16  
 24 money, which was a percentage of your salary or your 16:24:21  
 25 comp, and that would be used to pay your Social 16:24:25

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1 Security taxes and your FICA and a bunch of other 16:24:28  
 2 things. And then you would have optional things you 16:24:30  
 3 could buy, like insurance, extra vacation, expanded 16:24:33  
 4 disability coverage and some other things. 16:24:35  
 5 And any amounts that weren't funded in 16:24:37  
 6 that plan were supposed to be put aside into basically 16:24:41  
 7 a pour-over account, which you could get within two 16:24:48  
 8 years after it was put in there, provided you were 16:24:51  
 9 still working there and so forth and so on. 16:24:53  
 10 My impression is -- and I don't know this 16:24:56  
 11 to a certainty -- my impression is that portions of 16:24:59  
 12 those amounts were not funded and that portions of 16:25:00  
 13 certain other benefits may not have been funded. 16:25:03  
 14 All I know is that I had a claim, but I 16:25:06  
 15 had no idea how much it was, because I didn't know 16:25:10  
 16 what they'd funded and what they hadn't, in the amount 16:25:13  
 17 of about \$105,000. And I have to date collected 16:25:14  
 18 17,000 maybe, give or take. 16:25:19  
 19 Q. Is Drinker Biddle & Reath a creditor of 16:25:22  
 20 AHERF? 16:25:24  
 21 A. Yes, they are. 16:25:25  
 22 Q. Is their credit claim just based on legal 16:25:27  
 23 services that were rendered? 16:25:30  
 24 A. Yes. And they've received some 16:25:32  
 25 distributions, just as I have. I think the total 16:25:33

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CERTIFICATE

I HEREBY CERTIFY that the proceedings,  
evidence and objections are contained fully and  
accurately in the stenographic notes taken by me upon  
the foregoing matter on January 17, 2003, and that  
this is a true and correct transcript of same.

-----  
MICHELE L. MURPHY  
RPR-Notary Public

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**In The Matter Of:**

***AHERF v.  
PRICEWATERHOUSECOOPERS***

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***ROBERT McNAIR  
January 30, 2003***

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**McNAIR, ROBERT (1/30/2003)**

**Word Index included with this condensed transcript**

ROBERT McNAIR

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1 third-party payers were really sort of trimming 09:32:37  
 2 payment rates, which was -- or holding the line on the 09:32:41  
 3 payments rates at the very least. 09:32:43  
 4 So I think on the revenue side, the 09:32:46  
 5 payment rates coming in from outside were not as high. 09:32:49  
 6 I suspect, and I heard kind of as a general matter, 09:32:53  
 7 that some of the physicians weren't as productive as 09:32:58  
 8 they had been when they were in private practice. Eat 09:33:00  
 9 what you kill is a great motivator. 09:33:02  
 10 And I think in many cases their expenses 09:33:04  
 11 went up, because I think they were -- they now were 09:33:07  
 12 Allegheny employees, which meant under the ERISA rules 09:33:12  
 13 they had to have a full-blown benefits structure and 09:33:16  
 14 they had to have a lot of other things, and there were 09:33:18  
 15 various sort of electronic media requirements that 09:33:21  
 16 were imposed on them. In some cases they had to come 09:33:23  
 17 into compliance with the Rehabilitation Act because 09:33:26  
 18 their offices weren't wheelchair accessible or 09:33:29  
 19 whatever it may be. 09:33:32  
 20 So, I mean, there were a variety of 09:33:32  
 21 different reasons, some of which were in AHERF's 09:33:36  
 22 control and some of which weren't. 09:33:37  
 23 Q. During this time period of '94, say, up until 09:33:38  
 24 1997, was there an effort on the part of AHERF to try 09:33:41  
 25 to achieve some economies of scales with respect to 09:33:45

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1 AIHG? As for example, centralized billing, 09:33:49  
 2 centralized purchasing. 09:33:55  
 3 A. You know, I wasn't aware of it, to be 09:33:57  
 4 perfectly honest with you. Now, that was on the 09:34:00  
 5 operations side of the business. And, again, the 09:34:00  
 6 lawyers were sort of not in that silo, for want of a 09:34:02  
 7 better term. 09:34:06  
 8 I know that one of the common complaints 09:34:08  
 9 we had, not only with AIHG but with acquisition of 09:34:09  
 10 other enterprises, was that there seemed to be very 09:34:14  
 11 little sort of economizing as a result of the size of 09:34:16  
 12 the enterprise. 09:34:22  
 13 Our IS department, for example, was kind 09:34:24  
 14 of a continuing joke, which is one of the areas where 09:34:27  
 15 you would expect things to happen. 09:34:30  
 16 I was not aware that there was a central 09:34:32  
 17 billing operation, by way of example, for AIHG. I 09:34:34  
 18 think it was primarily being done through the 09:34:37  
 19 physicians' offices. Now, all those bills may have 09:34:40  
 20 been accumulated in one place for submission, but I 09:34:42  
 21 doubt it. 09:34:47  
 22 Q. As I understand it -- is it Dr. Levy or 09:34:52  
 23 just -- 09:34:58  
 24 A. No; Mr. Levy. 09:34:58  
 25 Q. Okay. -- (continued) Mr. Levy was 09:35:00

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1 responsible for managing AIHG? 09:35:01  
 2 A. Yeah. He along with whoever the physician 09:35:04  
 3 who was assigned to sort of oversee the physician 09:35:06  
 4 activities -- and the identity of that person changed 09:35:10  
 5 several times -- was responsible for sort of 09:35:13  
 6 day-to-day operations and management. 09:35:17  
 7 I think Ms. Calvert had technically been 09:35:20  
 8 the CEO at one point. Dr. Kaye, I think, became the 09:35:22  
 9 technical CEO in February of '96. I may be wrong on 09:35:25  
 10 that date, but it was approximately that. But Harvey 09:35:29  
 11 was the one who was kind of overseeing the day-to-day 09:35:33  
 12 operations. And he knew something about operating 09:35:35  
 13 physician practices. He made a substantial amount of 09:35:37  
 14 money back in the '80s and the early '90s doing 09:35:40  
 15 precisely that. 09:35:43  
 16 Q. Harvey Levy then would have reported to Carol 09:35:45  
 17 Calvert, and then when she left, he reported to 09:35:47  
 18 Dr. Kaye? 09:35:49  
 19 A. Yes, in theory, although he really reported 09:35:51  
 20 directly to Mr. Abdelhak. They had a very close 09:35:54  
 21 personal relationship. They owned race horses 09:35:57  
 22 together. There was something going on there that 09:35:59  
 23 wasn't entirely clear to all of us. So he could 09:36:01  
 24 pretty much do what he wanted to in terms of talking 09:36:05  
 25 to Sherif and getting what he wanted out of Sherif. 09:36:06

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1 So, I mean, it was -- while his formal 09:36:08  
 2 relationship may have been with Ms. Calvert, Dr. Kaye, 09:36:20  
 3 any time he wanted to, he would just go around them. 09:36:20  
 4 This was a source of great frustration to 09:36:20  
 5 both of them, I think, over time, but it was what it 09:36:23  
 6 was. 09:36:23  
 7 Q. How involved, from your perspective, did 09:36:24  
 8 Sherif Abdelhak remain in the physicians acquisition 09:36:27  
 9 strategy? 09:36:31  
 10 A. It's hard to know. I mean, I wasn't -- I 09:36:31  
 11 know there were lots and lots and lots of late night 09:36:33  
 12 telephone calls between Harvey and Sherif. I mean, he 09:36:36  
 13 would just reference them in passing. 09:36:39  
 14 I don't know whether they were talking 09:36:41  
 15 about specific physicians. I don't know whether they 09:36:42  
 16 were talking about how things were going. But I know 09:36:44  
 17 that they were in continuous, pretty continuous, 09:36:47  
 18 contact for fairly a long period of time. 09:36:50  
 19 How long that went on, I can't say with 09:36:53  
 20 any certainty. And one of the reasons is because in 09:36:57  
 21 the spring of '97, the lawyers were relocated. We had 09:36:59  
 22 previously been in a converted convent, interestingly 09:37:04  
 23 enough, or actually a nuns retirement facility up at 09:37:09  
 24 Cheltenham on called Laurel Avenue. That's where the 09:37:14  
 25 legal offices were. That's where some of the other 09:37:17

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1 support offices were. And that's where AIHG offices 09:37:18  
 2 were. That's where Levy's office was. And his office  
 3 was right down the hall from me, so I used to see a 09:37:22  
 4 lot of him, I would hear what was going on and so 09:37:23  
 5 forth and so on. 09:37:26  
 6 When we moved in the spring of '97 and we 09:37:27  
 7 moved into kind of a remote space where there was 09:37:29  
 8 nobody else from Allegheny located there, that flow of 09:37:32  
 9 information more or less stopped. The only time I 09:37:34  
 10 talked to him was on the telephone, and that was much 09:37:37  
 11 less frequent than it had been, obviously when you'd 09:37:41  
 12 see somebody in the hallway or were having regular 09:37:44  
 13 meetings or whatever it may be. 09:37:47  
 14 Q. Did Harvey Levy's responsibilities with 09:37:49  
 15 respect to physician acquisitions extend to the west 09:37:51  
 16 as well? 09:37:54  
 17 A. That's an interesting question. I don't 09:37:56  
 18 know. I think he very well may have been overseeing 09:37:57  
 19 the western acquisitions. I really didn't have any 09:38:00  
 20 part in those acquisitions. 09:38:02  
 21 I suspect, only because Mr. Abdelhak had a 09:38:04  
 22 good deal of confidence in his business judgment and 09:38:07  
 23 he was a smart businessman, there's no question about 09:38:10  
 24 that, that he very well may have looked at those 09:38:12  
 25 acquisitions and undertaken to review them and so 09:38:14

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1 had a lot of involvement in the western acquisitions, 09:39:16  
 2 but I didn't have much occasion to talk to her about 09:39:21  
 3 those. We may have kind of mentioned it in passing, 09:39:23  
 4 but we were both working on it, but she certainly 09:39:25  
 5 didn't call me regularly for advice. 09:39:28  
 6 Q. Did you have occasion to work with Carol 09:39:30  
 7 Calvert with respect to the acquisition of practices? 09:39:33  
 8 A. Sure. Sure. Certainly during '94 and '95 09:39:34  
 9 when she was involved. To the extent she showed up, 09:39:38  
 10 yes, I would have. 09:39:41  
 11 Q. Was her involvement in physician practices 09:39:42  
 12 active? 09:39:45  
 13 A. She attended all the meetings. She certainly 09:39:47  
 14 had the title of CEO, but she was absent a lot, and I 09:39:50  
 15 would say that she was not active day to day to the 09:39:57  
 16 same extent that Harvey was. I didn't see nearly the 09:40:01  
 17 same amount of her that I saw of Harvey. Now, part of 09:40:03  
 18 that was because he was right down the hall from me. 09:40:06  
 19 And there was a certain amount of tension between the 09:40:08  
 20 two of them. That was evident. 09:40:10  
 21 She certainly did not have the same kind 09:40:16  
 22 of operational experience that he had running 09:40:18  
 23 practices. 09:40:22  
 24 Q. Do you know what her background was? 09:40:22  
 25 A. She was a French major at Penn State, I can 09:40:25

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1 forth and so on. But I wasn't involved in that. 09:38:19  
 2 Q. I would understand from your testimony that 09:38:21  
 3 you had no involvement with respect to the west and 09:38:22  
 4 the acquisition of physician practices in the west; is 09:38:26  
 5 that right? 09:38:28  
 6 A. No. I was aware of it, but I certainly 09:38:29  
 7 wasn't involved in any kind of detailed way. 09:38:30  
 8 Q. Did you have a counterpart in the west who 09:38:33  
 9 would have been performing the role that you were 09:38:34  
 10 performing here in the east? 09:38:36  
 11 A. Well, not to the same extent. We had a 09:38:38  
 12 senior lawyer in the west up until the summer of '97, 09:38:41  
 13 whose name was Bill Kennedy, who had been counsel at 09:38:45  
 14 Hahnemann University. And when we took over Hahnemann 09:38:48  
 15 in '93 and '94, he kind of came along with it, and the 09:38:50  
 16 general counsel offered him the opportunity to stay, 09:38:54  
 17 but did it with the specification he had to move to 09:38:56  
 18 Pittsburgh in order to do it. 09:38:59  
 19 I do not believe that Bill would have been 09:39:00  
 20 involved day to day in overseeing those things. 09:39:03  
 21 Certainly not to the same extent I was, because when I 09:39:06  
 22 first got involved, I was the only lawyer doing it, so 09:39:10  
 23 I sort of put the papers together and did a variety of 09:39:12  
 24 things.  
 25 There was a woman named Eileen Weiner who 09:39:14

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1 tell you that. I know that she had been an auditor. 09:40:27  
 2 I think she was with Touche, Ross originally and maybe 09:40:29  
 3 Deloitte. I've forgotten which one. She had been 09:40:41  
 4 hired to work in the internal audit department at 09:40:41  
 5 United hospitals, which was the entity -- enterprise 09:40:41  
 6 that Allegheny had taken over in 1991, which included 09:40:44  
 7 St. Christopher's and three community hospitals. And 09:40:48  
 8 she came on board as part of that and was kind of put 09:40:49  
 9 in charge of AIHG along the road. 09:40:54  
 10 Q. Were her offices here in the east or was -- 09:41:02  
 11 A. She had an office in Cheltenham on the third 09:41:03  
 12 floor of the building. We didn't see much of her. 09:41:06  
 13 She -- as I say, there were lots of times she wasn't 09:41:08  
 14 there. She had an infuriating habit of never showing 09:41:13  
 15 up on time, which very nearly derailed our 09:41:16  
 16 negotiations with the U.S. Healthcare risk-based 09:41:19  
 17 contract. Looking back, it's a shame it didn't. 09:41:22  
 18 But she was doing whatever she was doing. 09:41:27  
 19 I mean, I didn't see a lot -- she used to show up 09:41:30  
 20 regularly for our weekly meetings to evaluate 09:41:32  
 21 potential practices, and I would see her at AIHG Board 09:41:36  
 22 meetings when I went to those. I did not see her a 09:41:41  
 23 lot on a day-to-day basis. 09:41:43  
 24 Q. Structurally when AIHG would acquire a 09:41:46  
 25 physician practice -- 09:41:50

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CERTIFICATE

I HEREBY CERTIFY that the proceedings,  
evidence and objections are contained fully and  
accurately in the stenographic notes taken by me upon  
the foregoing matter on January 30, 2003, and that  
this is a true and correct transcript of same.

-----  
MICHELE L. MURPHY  
RPR-Notary Public

(The foregoing certification of this  
transcript does not apply to any reproduction of the  
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control and/or supervision of the certifying  
reporter.)

**Mertz Dep.**

KELLY MERTZ

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

- - - -

THE OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF )  
ALLEGHENY HEALTH, EDUCATION & )  
RESEARCH FOUNDATION, )

Plaintiff, )

-vs- )

PRICEWATERHOUSECOOPERS, L.L.P. )

Defendant. )

Civil Action  
No. 00-684

- - - -

VIDEO TAPE  
DEPOSITION OF: KELLY MERTZ  
VOLUME I

- - - -

DATE: July 31, 2002  
Wednesday, 9:11 a.m.

LOCATION: MANION McDONOUGH & LUCAS  
14th Floor, USX Tower  
Pittsburgh, PA 15219  
412-232-0200

TAKEN BY: Defendant

REPORTED BY: Claire Gross, CRR, RDR  
Notary Public  
AKF Reference No. Cg71290

KELLY MERTZ

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1 A. I generally would try to get Mike to respond,  
2 and then there was a point in time when Dan  
3 Cancelmi wanted to handle those inquiries.  
4 Q. Do you know when that occurred?  
5 A. I don't remember.  
6 Q. Do you know why Dan Cancelmi wanted to handle  
7 that?  
8 A. I think he wanted all of the replies to be  
9 handled by one individual so that they could  
10 be -- they would be consistent and people  
11 weren't --  
12 Q. Did Dan Cancelmi normally interact with any  
13 of the banks we were talking about?  
14 A. No. But because the questions were about the  
15 financial statements which he had  
16 responsibility for, it made sense for him to  
17 answer those questions.  
18 Q. He again was responsible for the DVOG --  
19 A. I think there was a period of time where he  
20 was AGH as well.  
21 Q. Do you remember?  
22 A. No.  
23 Q. Who in the treasury department worked on the  
24 covenant calculations?  
25 A. I prepared the calculations for the long-term

1 Q. How often would you calculate compliance with  
2 debt covenants, long-term debt covenants?  
3 MR. HAMILTON: Object to form.  
4 A. On a quarterly basis.  
5 Q. What is your understanding of what a master  
6 trust indenture is?  
7 A. That's a document executed between the  
8 institution that's issuing debt and the bank  
9 that's acting as bond trustee on that debt,  
10 and that would spell out the requirements of  
11 both the trustee and the institution in terms  
12 of debt service payments and default  
13 provisions and things of that nature.  
14 Q. What is your understanding of what the master  
15 trustee is supposed to do?  
16 A. Master trustee actually handles the payments  
17 to the bondholders. The debt service  
18 payments are made between the institution --  
19 by the institution to the trustee.  
20 Q. What is the master trustee's relationship to  
21 the bondholders?  
22 A. I don't know.  
23 Q. Do you know how AHERF's bonds were issued?  
24 A. AHERF's bonds?  
25 Q. Or I guess -- when I refer to AHERF, I guess

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1 debt, and I shared them with Sue and Mike for  
2 their review.  
3 Q. Who prepared the calculations for the  
4 short-term debt?  
5 A. Actually Rich McKeown had responsibility for  
6 that, but the actual calculations on the  
7 short-term debt were prepared by the  
8 accounting department.  
9 Q. By short-term debt what are we referring to?  
10 A. The AHERF line of credit is what I was  
11 referring to.  
12 Q. Did you have any involvement in preparing  
13 covenant calculations for that line of  
14 credit?  
15 A. No.  
16 Q. Did you have any involvement in reviewing the  
17 calculations that were prepared for that line  
18 of credit?  
19 A. I remember -- I mean, I didn't have  
20 responsibility for that. I do remember at  
21 one point seeing the calculations. Rich  
22 passed along a copy to me.  
23 Q. But you weren't responsible for reviewing  
24 them?  
25 A. No.

1 I'm talking about all of the different  
2 obligated groups that AHERF had, so I guess  
3 we can -- do you know how the bonds were  
4 issued?  
5 A. I guess I'm not understanding your question.  
6 You mean the actual --  
7 Q. Let me take it a different way. What is your  
8 understanding of what an obligated group is?  
9 A. The obligated group is the entity that's --  
10 or the combined group of entities that are  
11 issuing long-term debt.  
12 Q. What is the benefit of having bond insurance  
13 or a letter of credit supporting a bond  
14 issuance?  
15 A. The benefit to the bondholder or the benefit  
16 to the institution issuing debt?  
17 Q. I guess the benefit to the institution, to  
18 the obligator.  
19 A. As I mentioned, the bond trustee is the  
20 person that's making payments to the actual  
21 bondholders, and it's security for in the  
22 event we would not be able to make debt  
23 service payments or we default on those debt  
24 service payments.  
25 Q. AHERF was -- well, the treasury department

KELLY MERTZ

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1 was paying the banks for letters of credit.  
 2 What benefit do you think you were receiving  
 3 in return for those payments?  
 4 A. I already mentioned the benefits I thought we  
 5 derived from that relationship.  
 6 Q. Which was?  
 7 A. Making payments to the bondholders, is  
 8 that --  
 9 Q. I guess I'm just trying to figure out what it  
 10 is or why it is that AHERF would want to pay  
 11 to receive a letter of credit or bond  
 12 insurance.  
 13 A. Well, a bondholder would be more likely to  
 14 buy a bond that was insured or a letter of  
 15 credit supported.  
 16 Q. So having a letter of credit or bond  
 17 insurance allows you to issue more bonds?  
 18 A. Yes.  
 19 Q. For a larger amount of money?  
 20 A. Yes.  
 21 MR. KAO: I'm going to mark as  
 22 Exhibit 324 a document with the Bates numbers  
 23 PR Binder 0100001 through 86. This is what  
 24 is titled as Restated and Amended Master  
 25 Indenture Between Allegheny General Hospital

1 Q. -- drafting this?  
 2 A. No.  
 3 Q. For which bonds was this, the operative  
 4 master trust indenture form?  
 5 A. The AGH Obligated Group issued bonds.  
 6 Q. As I understand, AGH had a number of series  
 7 of bonds. Do you know which in particular  
 8 this master trust indenture pertained to?  
 9 A. I think they were the Series '93.  
 10 Q. What about the Series '95 bonds?  
 11 A. I can't remember.  
 12 Q. Can you turn to page 48 of this -- let me  
 13 see. 42. I'm sorry. And if you would  
 14 review Section 5.11(a).  
 15 A. (Witness reviews document.)  
 16 Okay.  
 17 Q. Under this agreement what was the AGH  
 18 Obligated Group's responsibility for  
 19 providing financial statements to the master  
 20 trustee?  
 21 A. Specific to 5.11(a)?  
 22 Q. Or if there is any other provisions in this  
 23 agreement that you think have bearing on  
 24 that.  
 25 MR. HAMILTON: Well, I object to

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1 and Other Members of the Obligated Group and  
 2 PNC Bank.  
 3 ----  
 4 (Deposition Exhibit 324 marked for  
 5 identification.)  
 6 ----  
 7 MR. HAMILTON: Counsel, do you know  
 8 was this marked at her June 2001 depo?  
 9 MR. KAO: I do not know.  
 10 MR. HAMILTON: Okay.  
 11 MR. KAO: I think it may have been,  
 12 but I just don't know.  
 13 BY MR. KAO:  
 14 Q. Do you recognize this document, Ms. Mertz?  
 15 A. Yes.  
 16 Q. Do you know who negotiated this document or  
 17 drafted this document?  
 18 MR. HAMILTON: Well, object to form.  
 19 Q. Do you know who negotiated this document?  
 20 A. You're talking about individuals that  
 21 negotiated this document?  
 22 Q. Yes.  
 23 A. This was prior to me joining AHERF.  
 24 Q. Did you have any involvement in --  
 25 A. No.

1 form.  
 2 A. All of these documents have their own little  
 3 nuances, so for me to attempt to remember  
 4 specifically the reporting requirements of  
 5 this entire document and articulate them  
 6 right now, it's -- I'm not going to attempt  
 7 to do that.  
 8 I mean, if you want me to specific to  
 9 5.11(a), I'd be happy to do them, send them  
 10 financial statements within five months after  
 11 the fiscal year with an auditor's opinion.  
 12 Q. Did AGH have to report quarterly under this  
 13 master trust indenture?  
 14 A. I don't remember.  
 15 Q. Do you know if AGH reported quarterly?  
 16 A. I can't remember. I doubt -- generally  
 17 speaking, it did do quarterly reporting, but  
 18 I don't know if that was a specific  
 19 requirement of this indenture. If you have a  
 20 copy of the AGH debt compliance checklist, it  
 21 could save probably all of us a lot of time.  
 22 Q. If you could turn to page 39 and look at  
 23 Section 5.08.  
 24 A. (Witness reviews document.)  
 25 MR. HAMILTON: All three parts?

12 (Pages 42 to 45)